



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Public Hearing Regarding Termination of Southwest Gateway and Westside Project Development Agreements with Frontier Community Builders, Inc.

MEETING DATE: August 15, 2012

PREPARED BY: City Manager

RECOMMENDED ACTION: Public Hearing regarding termination of Southwest Gateway (SW Gateway) and Westside Project Development Agreements with Frontier Community Builders, Inc.


BACKGROUND INFORMATION: In December of 2006, the City entered into the first of two Development Agreements with Frontier Community Builders, Inc. (FCB). The following provides a brief overview of the proposed projects:

| Area | Acres | Housing Units | | | | | | | Parks/ Basins & Trails (Acres) | Schools (Acres) |
|------------------------------|-------|----------------|--------------------|-------------------|--------------------|-----------------|--------------------|----------------|---|--------------------|
| | | Low Density | | Medium Density | | High Density | | Total Units | | |
| | | Units | Overall Density | Units | Overall Density | Units | Overall Density | | | |
| Westside | 106 | 388 | 7 | 70 | 7.7 | 180 | 20 | 638 | 24 | 10 |
| SW Gateway | 257 | 770 | 4.3 | 160 | 9.4 | 300 | 21.4 | 1,230 | 31 | 14.5 |
| Other areas to be annexed | 48 | — | — | — | — | — | — | 335 | — | — |

SW Gateway

The SW Gateway project annexed 257 acres of land from San Joaquin County into the City of Lodi, which could accommodate development of up to 1,230 residential units, 31 acres of parks and trails, an elementary school and related infrastructure. To implement the proposed project, the applicant received approvals for annexation, zoning and growth management unit allocation. The growth management units were allocated through the Development Agreement and as such, would be terminated with this action. The property will continue to be annexed and zoned for residential use as well as the accessory land uses.

APPROVED:


Konradt Bartlam, City Manager

Westside

The Westside project annexed 151 acres of land from San Joaquin County into the City of Lodi, which could accommodate development of up to 638 residential units, 24.4 acres of parks/park basins and trails, an elementary school and related infrastructure. As with the SW Gateway project, the growth management units allocated through the Development Agreement will be terminated with this action.

A Development Agreement (DA) is a private party agreement between an applicant and the City that, if approved by the City Council, becomes an ordinance of the City. The attached Development Agreements that were negotiated between the City and FCB resulted in certain benefits to the City in exchange for a vested right to proceed with the development consistent with the development approvals. The term of the Development Agreement was for 15 years. The vested right the developer obtains is the ability to proceed with the development as approved and to avoid the imposition of new regulations on the subsequent discretionary approvals (i.e., vesting tentative maps) for the development. A discussion of its benefits to the City and the how the agreement would allocate growth management units is outlined below.

Development Agreement Project Obligations for FCB Westside and SW Gateway Projects

| Obligation | Benefit |
|--|---|
| Payment of \$8,000,000 in installment payments for design and construction of DeBenedetti Park (SW Gateway) | Creation of community asset - \$8,000,000 contribution |
| Rehabilitate or pay the costs up to a total of \$1,250,000 of rehabilitating 25 single-family or multi-family residential units within a specified area within the City (Westside) | \$1,250,000 |
| Pay \$125,000 for use by the City for economic development actions including job creation, promoting retail sales and/or wine industry tourism all as determined by the City (Westside) | \$125,000 |
| Maintenance of specified public Improvements, including park, median strip and other landscaping maintenance and repair costs on dedicated lands for a period of two years (both projects) | Developer to provide the maintenance or pay for the maintenance costs for two years after acceptance by City |
| Pay \$2,300,000 to the City for use to acquire additional facilities, equipment and apparatus for the Lodi Fire Department (Westside) | \$2,300,000 |
| Installation of public art within the project with a value equal to \$150,000; art subject to approval by the City (Westside) | \$150,000 |
| Pay \$100,000 to the City for use to acquire equipment for the Lodi Parks and Recreation and Public Works Departments (SW Gateway) | \$100,000 |
| Community Facilities District formed to provide funding for payment of police, fire, library, recreation, flood control services and specified public facilities (both projects) | \$600 per single family attached or detached residential unit per year and \$175 per multi-family rental unit per year |
| Dedicate park land, design and complete construction of all the park improvements as described and set forth in the project approvals (both projects) | Full cost paid by Developer |
| Offer to dedicate 5-acre aquatic center (Westside) | \$200,000 per acre |

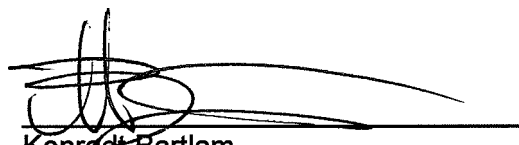
| | |
|--|---|
| All development approved as part of the project will be subject to uniformly applied increases in existing impact fee and to specified new fees as described herein (both projects) | Payment of development impact fees and water fees |
| Payment of a development fee for a proportionate share of the cost of the Highway 99 overpass at Harney Lane (both projects) | Cost of interchange funded, in part, by payment from Developer – Amount based on proportionate share of demand for interchange |
| Payment of Agricultural Land Mitigation fee pursuant to the ordinance and/or resolution to be adopted by the City (both projects) | Fees available for preservation of prime agricultural land based on ordinance adopted by City |
| Payment of Electric Capital improvement Mitigation fee pursuant to the ordinance and/or resolution to be adopted by the City (both projects) | Fees available for electric capital facilities based on ordinance adopted by City |
| Payment of development fee for proportionate share of the costs of designing and constructing a water treatment system and/or percolation system for treatment of water acquired from Woodbridge Irrigation District pursuant to the ordinance and/or resolution to be adopted by the City (both projects) | Cost of improvements funded, in part, by payment from Developer – Amount based on proportionate share of need created by the proposed development |
| Payment of Utility Exit Fees (both projects) | Developer pays full amount to PG&E |
| installation of water well on Westside Project site (both projects) | Ensure appropriate water supply for project |
| Provide up to a maximum of \$50,000 to partially fund the City of Lodi Recycled Water Master Plan Study (both projects) | \$100,000 |
| All storm drain basins, facilities, controls interior to project (both projects) | Full cost paid by Developer |
| <p>Developer shall design, engineer and construct the following improvements or pay the City the appropriate fee for the improvements:</p> <ol style="list-style-type: none"> 1. Proportionate share for the surface water transmission main and storage tank (both projects); 2. All water, sewer, storm drain, recycled water pipes and related infrastructure in all streets within the project area (both projects) 3. Dedicate land necessary design, and install improvements including curb, gutter, sidewalk and landscaping on the west side of Lower Sacramento Road between Lodi Shopping Center and Harney Lane (both projects); 4. Dedicate land adjacent to the project's frontage which is necessary for the expansion of Harney Lane and improve Harney Lane or pay into assessment district for improvements (SW Gateway); 5. Dedicate land, design and install a transition roadway land adjacent to the property along Highway 12/Kettlemen Lane (SW Gateway); 6. Reconstruct Lodi Avenue west of Lower Sacramento Road to the western project boundary (Westside); | Provide necessary infrastructure and improve Harney Lane and Highway 12 to meet City standards |

| | |
|---|--|
| <p>7. Reconstruct the Tokay Avenue/Lower Sacramento Road intersection to accommodate wider street sections</p> <p>8. Pay fair share for traffic mitigation measures in EIR that are not projects within the Streets and Roads Fee Program (both projects)</p> | |
|---|--|

Since the time of the original approvals, the only activity which has taken place for both of these projects has been their annexation into the City. Certain obligations shown above will continue with subsequent developments such as all fair share requirements for infrastructure, impact fees, etc.

FCB has provided the City with the attached letter requesting that the Agreements be terminated. The letter explains the circumstances which have taken place that have led to this point. Clearly, the real estate market collapse is the primary cause. As noted by Mr. Doucette, the economics of 2006 are not the same as the realities today. Simply put, the projects cannot be built as originally contemplated under the terms and conditions of the Agreements.

FISCAL IMPACT: None.



Konradt Bartlam
City Manager

Attachments: Letter from Tom Doucette, FCB
Development Agreements and land use plans



FCB HOMES

May 16, 2012

Mr. Rad Bartlem
City Manager
City of Lodi
221 West Pine Street
Lodi, CA 95240

Re: Westside and Southwest Gateway Development Agreements –
Request for Termination

Dear Kad,

Last April, 2011, I sent you a letter formally requesting termination of the Westside and Southwest Gateway Development Agreements (see attached). The letter followed nearly ten months of regular meetings with City Staff and their consultants working on Lodi's Impact Mitigation Fee Program (IMFP) update. We were convinced then that the Westside and Southwest Gateway properties should be included in the IMFP and the Development Agreements terminated. Now, over a year later, the IMFP update is nearly complete, and the Westside and Southwest Gateway properties are an integral part of the updated IMFP. Clearly, then, it is time to move forward to cancel the old Westside and Southwest Gateway Development Agreements and establish an economic framework for residential development to proceed within the current City limits.

At your request, I will outline below the main reasons we feel the Development Agreements should be cancelled.

1. The Development Agreements did not address the actual impacts resulting from new residential development.

When the Westside and Southwest Gateway projects were moving through the entitlement process, the City's existing impact fee program - originally adopted in 1991 - had *not* been updated for 15 years. While the fees had been periodically increased over time, many of the underlying assumptions about program funding had changed and it was those old fee programs that provided the basis for the Agreements. Furthermore, other fees were included in the Agreements, some of which bore little or no relationship to growth impacts from the Westside and Gateway projects.



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209-957-8112 FAX 209-957-3618 WWW.FCBHOMES.COM



Now, nearly six years later, the City has the cumulative benefit of precise plans for the Westside and Southwest Gateway and a new General Plan. The City's Staff is also approaching the end of a two year comprehensive study of growth impacts via the IMFP which include the Westside and Southwest Gateway properties. Their work, along with the Council's ultimate approval, will result in an updated, tailored IMFP. The new IMFP will be a far better and more accurate way to mitigate impacts from both the Westside and Gateway projects in comparison to the mitigation sought by the Agreements.

2. The Development Agreements have a fifteen year term. were never implemented and cannot be completed before they expire.

The national, state and local housing markets were at historic levels when the Development Agreements were approved in 2006. The fifteen year term of the Agreements seemed reasonable at the time given the active market conditions. However, the market has since plummeted to historic lows. Furthermore, City Staff, consultants, and developers are not expecting new residential development to even begin for another two to three years. By that time, the Development Agreements will only have approximately seven years remaining before they expire. This is less than half the time that was deemed appropriate under the best of market conditions and will simply not be sufficient time to complete these projects. At a minimum, the Development Agreements need to be renegotiated to account for this fact alone. However, as noted, it would be more accurate **and** efficient to put the entire City under one (updated) IMFP. Having to renegotiate the Development Agreements, regularly monitor compliance, **and** account for all funds and programs separate from the IMFP would be time consuming and an unnecessary financial burden for everyone involved.

3. The Development Agreements required predetermined lump sum payments for certain fees that cannot be financed without a robust and consistent housing market.

Historically, the City's IMFP has been designed to be a "pay-as-you-go" system. This allowed the pace of development to mirror the acceleration or decline of the housing market. The proposed updated IMFP will likewise operate on a "pay-as-you-go" basis. This is a more sustainable way to manage growth, particularly in a community like Lodi - where the long term residential growth rate is relatively slow. Development in Westside and Southwest Gateway will likely occur in phases by multiple development interests. While this is consistent with how development in Lodi has occurred for many years, it makes the payment of large, lump sums on a predetermined schedule virtually impossible to **finance**.

Development Agreements with lump sum payments work best on large scale projects expected to be completed in a predictable fashion. They can even work effectively on small projects when the completion can be reasonably forecasted. However, in a community like Lodi, this structure will not work effectively on larger scale areas of development over longer (less economically predictable) periods of time.

Summary

While the issues outlined above are not exhaustive, they highlight several important factors which underscore the need to terminate the Westside and Southwest Gateway Development Agreements. Alternatively, these Development Agreements could be renegotiated, but that should be weighed against the inclusion of these projects in the updated IMFP program.

The Agreements were executed during an unprecedented "Housing Bubble" fueled by the "Irrational Exuberance" of a dysfunctional financial system. These dynamics no longer exist and will not return in our lifetime. The housing market, as well as the overall economy, is struggling to find its footing following one of the worst recessions in history. Fortunately, the City has moved on and set a course to plan for sustainable future growth base on realistic assumptions.

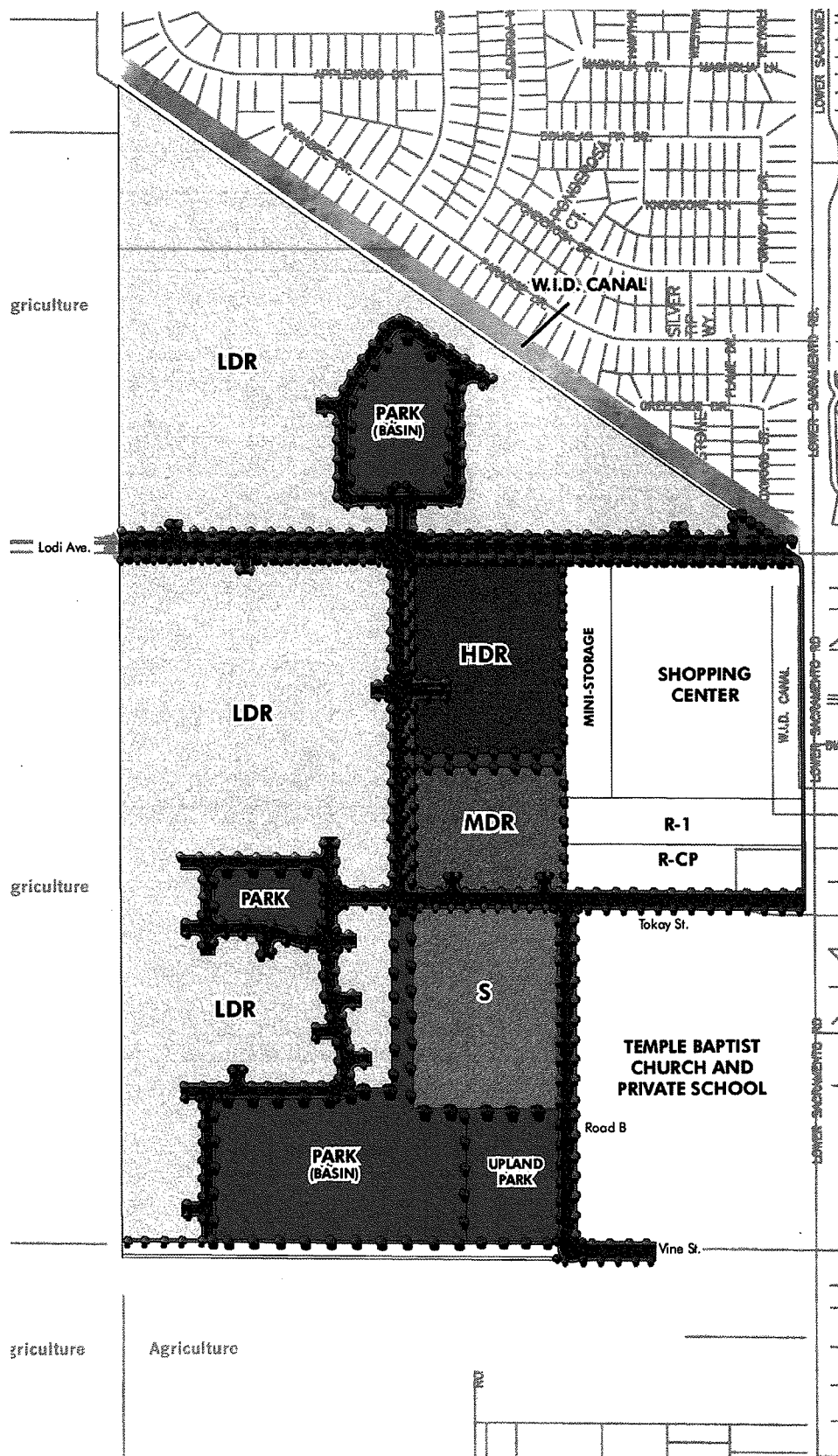
The Westside and Southwest Gateway projects will be a major component of the City's planned growth plans for the next ten to fifteen years. With this in mind, it is our belief that it will be more efficient, balanced and productive to utilize the updated IMFP for the Westside and Southwest Gateway projects once it is adopted by the City Council.

Sincerely,

A handwritten signature in black ink, reading "Tom Doucette". The signature is fluid and cursive, with the first name "Tom" and last name "Doucette" clearly legible.

Thomas P. Doucette
President

Westside Land Use Plan



LODI WESTSIDE: Illustrative Land Use Plan

City of Lodi, CA

SCALE : 1" = 200'

FCB HOMES

DAHLING GROUP
JOB #: 177,001

SANITA TELLER, PLS
SUPERVISOR
LODI, CA 95240
TEL: 951.250.4600
FAX: 951.250.8000

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City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

Attn: City Clerk

Doc #: 2008-166004
Thu Oct 16 09:41:50 PDT 2008
Page: 1 of 74 Fee: \$0
Gary W. Freeman
San Joaquin County Recorders
Paid By: SHOWN ON DOCUMENT



(SPACE ABOVE THIS LINE RESERVED FOR
RECORDER'S USE)

DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF LODI
AND FRONTIER COMMUNITY BUILDERS, INC.
FOR FCB WESTSIDE PROJECT

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DEVELOPMENT AGREEMENT FCB WESTSIDE PROJECT

This Development Agreement is entered into as of this 4th day of April, 2007, by and between the CITY OF LODI, a municipal corporation ("City"), and, FRONTIER COMMUNITY BUILDERS, INC. ("Landowner"). City and Landowner are hereinafter collectively referred to as the "Parties" and singularly as "Party."

RECITALS

1. **Authorization.** To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Government Code Section 65864, et seq. (the "Development Agreement Statute"), which authorizes the City and any person having a legal or equitable interest in the real property to enter into a development agreement, establishing certain development rights in the Property which is the subject of the development project application.

2. **Property.** Landowner holds a legal or equitable interest in certain real property located in the City of Lodi, County of San Joaquin, more particularly described in Exhibit A-I attached hereto (the "Property"). Landowner represents that all persons holding legal or equitable interests in the Property shall be bound by this Agreement.

3. **Project.** Landowner has obtained various approvals from the City (described in more detail in Recital 6 below) for a mixed use project known as FCB Westside (the "Project") to be located on the Property.

4. **Public Hearing.** On October 25, 2006, the Planning Commission of the City of Lodi, acting pursuant to Government Code Section 65867, held a hearing to consider this Agreement and the Planning Commission action has been reported to the City Council.

5. **Environmental Review.** On March 21, 2007, the City Council certified as adequate and complete, the Lodi Annexation Environmental Impact Report ("EIR") for the Project. Mitigation measures were required in the EIR and are incorporated into the Project and into the terms and conditions of this Agreement, as reflected by the findings adopted by the City Council concurrently with this Agreement.

6. **Project Approvals.** The following land use approvals (together the "Project Approvals") have been granted for the Property, which entitlements are the subject of this Agreement:

6.1. The EIR. The Mitigation Measures in the EIR are incorporated into the Project and into the terms and conditions of this Agreement (City Resolution No. 2007-48);

6.2. A General Plan Amendment (the "General Plan"), is not required for this project because it is consistent with the Current General Plan;

6.3. The Zoning of the Property (attached hereto as Exhibit B-1) approved by the City on March 21, 2007 (City Ordinance No. 1793);

6.4. The Large Lot Tentative Subdivision Map for the Project (attached hereto as Exhibit C-1) to be subsequently considered by the City through a noticed public hearing process. (The parties agree that the large lot subdivision map included herein is for illustrative purposes only and shall not be effective until approved through a notice public hearing process by the City. If approved by the City, the Large Lot Subdivision Map shall thereafter be included within the Project Approvals listed herein);

6.5. Reserved;

6.6. The Development Plan and Infrastructure Plan for the Project (attached hereto as Exhibit D), approved by the City on March 21, 2007 by City Resolution No. 2007-51;

6.7. The Growth Management Allocations, as required by Chapter 15.34 of the Lodi Municipal Code, as set forth in Exhibit E, approved by the City on April 4, 2007 by Ordinance No. 1794;

6.8. This Development Agreement, as adopted on April 4, 2007 by City Ordinance No. 1794 (the "Adopting Ordinance"); and,

6.9. The Annexation Approvals granted by San Joaquin County Local Agency Formation Commission as shown in Exhibit F attached hereto.

7. Need for Services and Facilities. Development of the Property will result in a need for municipal services and facilities, some of which will be provided by the City to such development subject to the performance of Landowner's obligations hereunder. With respect to water, pursuant to Government Code Section 65867.5, any tentative map approved for the Property will comply with the provisions of Government Code 66473.7.

8. Contribution to Costs of Facilities and Services. Landowner agrees to contribute to the costs of such public facilities and services as required herein to mitigate impacts on the community of the development of the Property, and City agrees to provide such public facilities and services as required herein to assure that Landowner may proceed with and complete development of the Property in accordance with the terms of this Agreement. City and Landowner recognize and agree that, but for Landowner's contributions set forth herein including contributions to mitigate the impacts arising as a result of development entitlements granted pursuant to this Agreement, City would not and could not approve the development of the Property as provided by this Agreement and that, but for City's covenant to provide certain facilities and services for development of the Property, Landowner would not and could not commit to provide the mitigation as provided by this Agreement. City's vesting of the right to

develop the Property as provided herein is in reliance upon and in consideration of Landowner's agreement to make contributions toward the cost of public improvements as herein provided to mitigate the impacts of development of the Property as development occurs.

9. Development Agreement Resolution Compliance. City and Landowner have taken all actions mandated by, and fulfilled all requirements set forth in, the Development Agreement Resolution of the City of Lodi, as set forth in the City Council Resolution No. 2005-237 for the consideration and approval of the pre-annexation and development agreement.

10. Consistency with General and Specific Plan. Having duly examined and considered this Agreement and having held properly noticed public hearings hereon, the City found that this Agreement satisfies the Government Code §65867.5 requirement of general plan consistency.

NOW, THEREFORE, in consideration of the mutual promises, conditions and covenants hereinafter set forth, the Parties agree as follows:

AGREEMENT

1. Incorporation of Recitals. The Preamble, the Recitals and all defined terms set forth in both are hereby incorporated into this Agreement as if set forth herein in full.

2. Description of Property. The property, which is the subject of this Development Agreement, is described in Exhibit A-1 and depicted in Exhibit A-2 attached hereto ("Property").

3. Interest of Landowner. The Landowner has a legal or equitable interest in the Property. Landowner represents that all persons holding legal or equitable interests in the Property shall be bound by the Agreement.

4. Relationship of City and Landowner. It is understood that this Agreement is a contract that has been negotiated and voluntarily entered into by City and Landowner and that Landowner is not an agent of City. The City and Landowner hereby renounce the existence of any form of joint venture or partnership between them, and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making the City and Landowner joint venturers or partners.

5. Effective Date and Term.

5.1. Effective Date. The effective date of this Agreement ("Effective Date") is April 4, 2007, which is the effective date of City Ordinance No. 1794 adopting this Agreement.

5.2. Term. Upon execution, the term of this Agreement shall commence on the Effective Date and extend for a period of fifteen (15) years, unless said term is terminated, modified or extended by circumstances set forth in this Agreement. Following the expiration of the term, this Agreement shall be deemed terminated and of no further force and effect. Said termination of the Agreement shall not affect any right or duty created by City approvals for the

Property adopted prior to, concurrently with, or subsequent to the approval of this Agreement nor the obligations of Sections 20, 24 or 25 of this Agreement. In the event that litigation is filed by a third party (defined to exclude City and Landowners or any assignees of Landowner) which seeks to invalidate this Agreement or the Project Approvals, the expiration date of this Agreement shall be extended for a period equal to the length of time from the time the summons and complaint and/or petition are served on the defendant(s) until the judgment entered by the court is final and not subject to appeal; provided, however, that the total amount of time for which the expiration date shall be extended as a result of such litigation shall not exceed four years.

5.3. Automatic Termination Upon Completion and Sale of Residential

Lot. This Agreement shall automatically be terminated, without any further action by either party or need to record any additional document, with respect to any single-family residential lot within a parcel designated by the Project Approvals for residential use, upon completion of construction and issuance by the City of a final occupancy permit for a dwelling unit upon such residential lot and conveyance of such improved residential lot by Landowner to a bona-fide good-faith purchaser thereof. In connection with its issuance of a final inspection for such improved lot, City shall confirm that all improvements, which are required to serve the lot, as determined by City, have been accepted by City. Termination of this Agreement for any such residential lot as provided for in this Section shall not in any way be construed to terminate or modify any assessment district or Mello-Roos Community Facilities District lien affecting such lot at the time of termination.

6. Use of Property.

6.1. Vested Right to Develop. Landowner shall have the vested right to develop the Project in accordance with the terms and conditions of this Agreement, the Project Approvals, the City's existing policies, standards and ordinances (except as expressly modified by this Section 6.1 and Section 8.3) and any amendments to any of them as shall, from time to time, be approved pursuant to this Agreement. Landowner's vested right to develop the Property shall be subject to subsequent approvals; provided however, except as provided in Section 6.3, that any conditions, terms, restrictions and requirements for such subsequent approvals shall not prevent development of the Property for the uses, or reduce the density and intensity of development, or limit the rate or timing of development set forth in this Agreement, so long as Landowner is not in default under this Agreement. Notwithstanding the vested rights granted herein, Landowner agrees that the following obligations, which are presently being developed, shall apply to development of the Property:

- 6.1.1** Payment of a development fee for a proportionate share of the design and construction cost of the Highway 99 interchange project at Harney Lane.
- 6.1.2** Payment of Agricultural Land Mitigation fee, as identified in Mitigation Measure LU-2, pursuant to the ordinance and/or resolution to be adopted by the City of Lodi.

- 6.1.3 Payment of Electric Capital Improvement Mitigation fee (see Section 6.4.10) pursuant to the ordinance and/or resolution to be adopted by the City of Lodi.
- 6.1.4 Payment of development fee for proportionate share of the costs of designing and constructing a water treatment system and/or percolation system for treatment of water acquired from Woodbridge Irrigation District (see Section 6.4.7) pursuant to the ordinance and/or resolution to be adopted by the City of **Lodi**.

With regards to the fees identified in Sections 6.1.1, 6.1.2, 6.1.3, and 6.1.4 and these fees only, Landowner hereby consents to their imposition as conditions of approval on any discretionary or ministerial land use entitlement subsequently granted by the City including but not limited to issuance of building permits. City agrees that the fees payable by the Landowner pursuant to Sections 6.1.1, 6.1.2, 6.1.3 and 6.1.4 shall be adopted in conformance with applicable law, and shall apply uniformly to all new development on properties within the City that are zoned consistent with the Project Approvals, or apply uniformly to all new development on properties that are similarly situated, whether by geographic location or other distinguishing circumstances. Except for the fees identified in this Agreement including but not limited to the Project Approvals, Sections 6.1.1, 6.1.2, 6.1.3, 6.1.4 and 8.3, no other subsequently enacted development or capital fee shall be imposed as a condition of approval on any discretionary or ministerial decision. The Parties acknowledge and agree that the fees applicable to the development pursuant to the Project Approvals and this Agreement may be increased during the term of this Agreement provided that (1) such increases are limited to annual indexing (i.e. per the Engineering News Record index, or the CPI, or other index utilized by the City) and as provided in current fee ordinances and (2) the increased fees are adopted in conformance with applicable law, apply uniformly to all new development on properties within the City that are zoned consistent with the Project Approvals, or apply uniformly to all new development on properties that are similarly situated, whether by geographic location or other distinguishing circumstances. The initial adjustment shall be effective as of four years after the Effective Date of the Agreement and shall be calculated based on the difference in the applicable index from the numerical rate at the end of the month following the third year after the Effective Date and the numerical rate at the end of the month following the fourth year after the Effective Date. All subsequent increases shall be based on the annual change in the applicable index. Notwithstanding the preceding sentence, index adjustments to the fees set forth in Section 8.2, subsections 2, 3 and 4 shall be effective annually as set forth in the relevant ordinances and resolutions. Moreover, Landowner will be subject to the indexing called for above even if Landowner has filed a complete application for a Vesting Tentative Map and will not vest against such indexing until payment of the fees as called for in this Agreement.

6.2. Permitted Uses. The permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, provisions for reservation or dedication of land for public purposes, location and maintenance of on-site and off-site improvements, location of public utilities and other terms and conditions of development applicable to the Property, shall be those set forth in this Agreement, the Project Approvals and any amendments to this Agreement or the Project Approvals. City acknowledges that the

Project Approvals provide for the land uses and approximate acreages for the Property as set forth in Exhibit B-1 and Exhibit B-2.

6.3. Moratorium, Quotas, Restrictions or Other Growth Limitations.

Landowner and City intend that, except as otherwise expressly provided in this Agreement, this Agreement shall vest the Project Approvals against subsequent City resolutions, ordinances and initiatives approved by the City Council or the electorate that directly or indirectly limit the rate, timing, or sequencing of development, or prevent or conflict with the permitted uses, density and intensity of uses or the right to receive public services as set forth in the Project Approvals; provided however Landowner shall be subject to rules, regulations or policies adopted as a result of changes in federal or state law (as provided in Section 7.3) which are or have been adopted on a uniformly applied, City-wide or area-wide basis, in which case City shall treat Landowner in a uniform, equitable and proportionate manner with all properties, public and private, which are impacted by the changes in federal or state law.

6.3.1 Allocations Under City Growth Management Program

a. Allocations Required Prior to Map Approval

Consistent with the City's Growth Management Program, which shall apply to the Project, except as otherwise provided herein, no tentative map for any portion of the Property shall be issued until such time as Landowner has obtained allocations for each residential unit within the area covered by such map, consistent with the Growth Management Ordinance (Ordinance 1521), codified as Section 15.34 of the City of Lodi Municipal Code.

b. Schedule of Allocation of Residential Units

The following schedule of residential unit allocations shall apply to the Project.

(i) Initial Allocation:

As of the Effective Date of this Agreement, the following number of residential units shall be initially allocated to the Project from the City's reserve of unused allocations ("Initial Allocation"):

215 Low Density Units

Except for the requirement set forth in Section 6.3.1 (a) above the Initial Allocation has been determined to be exempt from and in compliance with the provisions of the Growth Management Ordinance and Resolutions 91-170 and 91-171 (timing and point system requirements).

(ii) Subsequent Annual Allocations:

As of the Effective Date of this Agreement, Landowner shall be entitled to apply for future annual allocations in three-year increments, and on a rolling basis. Provided that Landowner

otherwise complies with the City's Growth Management Program, Landowner shall be entitled to annual allocations set forth in Exhibit E ("Annual Allocations"). If Landowner elects in any year to request fewer allocations than provided for in Exhibit E or if the term of any allocation granted expires before it is used as part of obtaining a subdivision map, Landowner shall be entitled to receive, upon submission of a complete growth management allocation application, additional allocations after the eighth year of this Agreement and through the term of this Agreement including any extension thereto granted pursuant to Section 5.2. The total number of growth management allocations granted hereunder shall be limited to the number of residential units approved as part of the Project Approvals excluding any senior housing residential units. The use of such allocations shall be restricted to the year for which such allocations were made, consistent with the Growth Management Ordinance. Notwithstanding the foregoing, Landowner may request additional allocations, over and above those set forth in Exhibit "E", and City may grant such allocations in its discretion, provided such additional allocations are consistent with the City's Growth Management Allocation Program, Resolutions 91-170 and 91-171, subject to such additional community benefits and/or exactions negotiated upon such a request.

Landowner is not required to apply for such allocations on an annual basis. Landowner may instead comply with all development plan and related requirements under the Growth Management Ordinance and Resolutions 91-170 and 91-171 every third year, at which time Landowner may apply for allocations for the next three-year period. After the expiration of the year for which an Annual Allocation was issued to Landowner, Landowner may submit a request and be issued by the City another Annual Allocation, such that Landowner may maintain, on a rolling basis, a number of allocations equal to three Annual Allocations. Except for allowing the Landowner this flexibility in terms of the number of years for which Landowner may apply, all requests for Annual Allocations must otherwise comply with the Growth Management Ordinance and Resolutions 91-170 and 91-171.

The requirement that Landowner apply for Annual Allocations does not alter the vested rights of the Project, specifically as to the General Plan and zoning designation of the Project.

(c) Growth Management Ordinance in full force and effect:

Except where otherwise specifically stated herein, nothing in this section 6.3.1 is intended to modify in any way the City's Growth Management Program, including its exemptions under Section 15.34.040 (e.g., for senior citizen housing).

Section 6.3.2 Future Growth Control Ordinances/Policies, Etc.

(a) One of the specific purposes of this Agreement is to assure Developer that, during the term of this Agreement no growth-management ordinance, measure, policy, regulation or development moratorium of City adopted by the City Council or by vote of the electorate after the Effective Date of this Agreement will apply to the Property in such a manner so as to the reduce the density of development , modify the permissible uses, or modify the phasing of the development as set forth in the Project Approvals.

(b) Therefore, the parties hereto agree that, except as otherwise expressly provided in the Project Approvals, Sections 6.1, 6.3.1 or 6.4 or other provision of this Agreement which expressly authorize City to make such pertinent changes, no ordinance, policy, rule, regulation, decision or any other City action, or any initiative or referendum voted on by the public, which would be applicable to the Project and which would affect in any way the rate of development, construction and build out of the Project, or limit the Project's ability to receive any other City service shall be applicable to any portion of the Project during the term of this Agreement, whether such action is by ordinance, enactment, resolution, approval, policy, rule, regulation, decision or other action of City or by public initiative or referendum.

(c) City, through the exercise of either its police power or its taking power, whether by direct City action or initiative or referendum, shall not establish, enact or impose any additional conditions, dedications, fees or other exactions, policies, standards, laws or regulations, which directly relate to the development of the Project except as provided in Sections 6.1, 6.3.1, or 6.4 herein or other provision of this Agreement which expressly allows City to make such changes. Nothing herein prohibits the Project from being subject to a (i) City-wide bond issue, (ii) City-Wide special or general tax, or (iii) special assessment for the construction or maintenance of a City-wide facility as may be voted on by the electorate or otherwise enacted; provided that such tax, assessment or measure is City-wide in nature, does not discriminate against the land within the Project and does not distinguish between developed and undeveloped parcels.

(d) This Agreement shall not be construed to limit the authority of City to charge processing fees for land use approvals, public facilities fees and building permits as they relate to plumbing, mechanical, electric or fire code permits, or other similar permits and entitlements which are in force and effect on a city-wide basis at the time those permits are applied for, except to the extent any such processing regulations would be inconsistent with this Agreement.

(e) Notwithstanding subdivision (b), the City may condition or deny a permit, approval, extension, or entitlement if it determines any of the following:

(1) A failure to do so would place the residents of the Project or the immediate community, or both, in a condition dangerous to their health or safety, or both.

(2) The condition or denial is required in order to comply with state or federal law (see Section 7.3).

6.4. Additional Conditions.

6.4.1. Timing of Dedications and Improvements of Parks

Landowner agrees to dedicate park land and complete construction of all the park improvements as described and set forth in the Project Approvals at its sole cost and expense. The lists of the parks and park improvements contemplated herein is set forth in Exhibit "I" and

Exhibit "J". Landowner and City agree that the provision of land and the construction of all park facilities and installation of equipment within the Project boundaries will satisfy Landowner's Quimby Act obligations as set forth in Lodi Municipal Code Chapter. Therefore, Landowner shall not be obligated to pay any additional park fees and Landowner shall not be entitled to any credit for the value of the improvements constructed or equipment installed except as provided hereinbelow. The phasing of such improvements shall be in compliance with the Phasing Schedule included in Exhibit I.

With regards to the park improvements listed in Exhibit J, prior to approval by the City of the first tentative subdivision map, Landowner shall prepare plans and specifications for all park improvements included in the Project Approvals and submit those plans and specifications to the City for review and approval which approval will not be unreasonably withheld provided that the plans and specifications contain all park improvements listed in Exhibit J and satisfy all applicable conditions of approval included in the Project Approvals. The Landowner shall construct the parks in compliance with the approved plans and specifications. The City will inspect improvements during construction. If improvements are of poor quality and/or do not meet the requirements of approved plans and specifications, the City will notify the Landowner in writing and the Landowner, at its sole cost, shall correct any errors or deficiencies. The Landowner shall construct the parks to the satisfaction of the City, which shall be defined as compliance with the approved plans and specifications.

As part of the park improvements identified herein, Landowner is obligated to offer for dedication to the City for a period of six years, five acres of land located at West of Lower Sacramento Road, North of Vine Street and as depicted in the Westside Facilities Master Plan for park uses including a possible aquatic center. Upon acceptance of the dedication by the City, which must occur within six years after the offer of dedication is made, the City shall, for the remaining term of this Agreement and at the time of City approval of any development project located in the area south of West Vine Street, north of Highway 12, and west of North Lower Sacramento Road ("Adjacent Property"), impose a requirement that the developer of the Adjacent Parcel pay the City an amount equal to the reasonable actual costs incurred for park land and related construction costs by Landowner for parks developed within the Project in excess of the minimum amount of park dedication required by the Lodi Municipal Code and which the developer of the "Adjacent Parcel" uses to satisfy its park dedication requirements. The parties agree that they shall calculate the any potential credit payable by the developer of the Adjacent Property pursuant to this paragraph prior to approval for the first tentative subdivision map for the Property. Upon receipt of the that payment, City shall either pay that amount to Landowner or credit that amount against any outstanding fee payable by Landowner.

6.4.2. Rehabilitation of Existing Residential Units

Landowner agrees that within ten years of the Effective Date of this Agreement, Landowner shall either rehabilitate or pay the costs (for a total value of \$1,250,000) of rehabilitating up to a maximum of twenty-five (25) single-family or multi-family residential units within the area bounded by the Union Pacific railroad tracks, Cherokee Lane, Kettleman Lane and Lockford Street. To satisfy this obligation, Landowner may pay to rehabilitate residential units owned by

others or may purchase, rehabilitate and sell or rent said residential units. The City shall have the right to approve the residential units selected for rehabilitation; said approval shall not be unreasonably withheld by the City.

The improvements required herein to facilitate rehabilitation of residential units may include landscaping, painting, roof repair, replacement of broken windows, sidewalk repairs, non-structural architectural improvements, and demolition and reconstruction of residential units. All work performed pursuant to this section shall be done pursuant to properly issued building permits as required by City of Lodi ordinances. As part of the annual review required pursuant to Section 13, Landowner shall report on work completed during the prior year towards meeting the obligations set forth in this paragraph.

In the event that Landowner has not satisfied this obligation within ten years from the Effective Date, Landowners shall pay the City fifty thousand dollars (\$50,000) per residential unit for each of the twenty-five (25) units that have not been rehabilitated as set forth above. The funds paid shall be placed in a dedicated city fund to be used for housing rehabilitation grants or loans within the area specified hereinabove.

6.4.3. Payment for Promotion of Economic Development

Within ten (10) years of the Effective Date of this Agreement, Landowner shall pay the City Two Hundred Twenty-Six Thousand U.S. dollars (\$226,000) for use by the City for economic development actions including job creation, promoting retail sales and/or wine industry tourism all as determined by the City. The purpose of this payment is to assist the City in its effort to maintain a balance between employment and housing demands.

6.4.4 Payment of Utility Exit Fees The Lodi Electric Utility is a city-owned and operated utility that provides electrical utility services for residential, commercial and industrial customers in Lodi. As the proposed project sites would be annexed to the City of Lodi, the Lodi Electric Utility would provide electrical utility services to the project site. To the extent that Landowner is assessed "exit fees," also known as "Cost Responsibility Surcharges," by Pacific Gas & Electric for its departing load, Landowner shall pay said fees when they are due. Landowner may, at its option and at its own cost, request a Cost Responsibility Surcharge Exemption from the California Energy Commission for any qualified departing load pursuant to Title 20, California Code of Regulations, Section 1395, et. seq. Forms for the exemption are available on-line at http://www.energy.ca.gov/exit_fees/documents/2004-02-18_PGE_EXEMP_APPL.PDF City makes no representation that Landowner is eligible for exemptions pursuant to these regulations. Landowner agrees to save, defend, indemnify and hold harmless City from any and all costs, judgments or awards owed to Pacific Gas & Electric arising out of or related to City's provision of electrical utility services to the project site.

6.4.5 Maintenance of Specified Public Improvements

Landowner agrees to provide or pay for all park, median strip, and other landscaping maintenance and repairs for two years for lands dedicated by the Landowner to the City and

accepted by the City. In the event that Landowner chooses to pay the City for the costs of maintenance and repair, the City shall provide an estimate of the annual costs and the Landowner shall pay the full amount within thirty calendar days after the City by U.S. Mail or email, transmits the estimate to the Landowner. If the amount paid to the City exceeds the actual amount incurred by the City plus reasonable staff costs to administer the contract, the City shall, within a reasonable period of time, refund the difference to the Landowner.

6.4.6 Payment for Fire Department Facilities, Equipment and Apparatus

In addition to any applicable development impact for fire services, within ten years of the Effective Date of this Agreement, Landowner shall pay Two Million Six Hundred Thousand U.S. dollars (\$2,600,000) to the City for use to acquire additional facilities, equipment and apparatus for the Lodi Fire Department.

Landowner acknowledges that City will enter into contracts to acquire the facilities, equipment and apparatus. As consideration for City's agreement to authorize payment in installment payments, Landowner agrees to provide a letter of credit payable to the City, in a form reasonably acceptable to the City Attorney, in an amount sufficient to cover the amount due herein. City agrees that Landowner may substitute a letter of credit, in a form reasonably acceptable to the City Attorney, for a lesser amount upon payment of any portion of the amount due herein. Upon delivery of such replacement letter of credit and its approval as to form by the City Attorney, the City will release and convey to Landowner the prior letter of credit.

6.4.7 Reserved.

6.4.8 Water Treatment and/or Percolation Cost Landowner shall pay a fee based on the proportionate share of the costs of designing and constructing a water treatment system and/or percolation system for treatment of water acquired by the City from the Woodbridge Irrigation District. Landowner shall pay the fee as required under the fee program to be development by the City, but in no event later than when water service connection for each residential, office and commercial unit is provided.

6.4.9 Public Art on Property Within ten (10) years of the Effective Date of this Agreement, Landowner shall obtain City approval for and install public art on the Project. The value of the public art installed shall be equal to One Hundred Fifty Thousand U.S. dollars (\$150,000) inclusive of design and installation costs, which together shall not exceed \$10,000. The public art shall be installed in a place within the Project that is visible from the public right-of-way or from an area or areas that provides public access. Landowner shall provide maintenance of the public art. Landowner shall be eligible to apply for City matching grant for the public art up to a maximum amount of \$40,000. The parties agree that any matching grant provided by the City shall be in addition to the \$150,000 contribution provided by Landowner pursuant to the section and shall be subject to any and all conditions normally imposed as part of the issuance of a grant by the City.

6.4.10 Utility Line Extension City is preparing a policy pursuant to which property developed will pay the actual costs of capital improvements necessary to extend utility services to a development. Landowner acknowledges that such an extension is necessary to implement the Project Approvals on the Property. Landowner agrees to pay the City, pursuant to the policy to be adopted by the City, the costs of the capital improvements necessary to extend utility services to the Property.

6.4.11 Improvements to be Designed and Constructed by Landowner Within or Adjacent to the Project Boundaries

The Project Approvals require the installation of specified public and private improvements. Landowner shall, as specified in the Project Approvals, either design, engineer and construct the following improvements or pay the City the appropriate fee for the design, engineering and construction of said improvements. The obligations imposed on the Landowner herein shall be in addition to any other obligations set forth in this Agreement.

In the event that any of Developer's improvements encroach upon any city facilities, property or rights of way, developer shall indemnify City against any and all expenses, including legal fees, incurred by the City to secure replacement facilities, property or rights of way.

6.4.11.1 Surface Water Facilities

Transmission Main (Proportionate share of the total design, engineering and construction costs).

Storage Tank (Proportionate share of the total, design, engineering and construction costs).

6.4.11.2 Water Supply Facilities

One new water well to cover proposed development within the Southwest Gateway and Westside development areas. The well will be installed in the Southwest Gateway area at the location identified in the Project Approvals or approved by the City Engineer. This condition may be satisfied by the installation of the well pursuant the requirement set forth in Section 6.4.7.2 of the FCB Southwest Gateway Development Agreement provided that adequate flow capacity is provided for the development authorized as part of the Westside and Southwest Gateway Project Approvals. The well shall be installed and operational on or before January 1, 2010 or earlier if otherwise required by the Water Master Plan.

6.4.11.3 Water Distribution Facilities

All water pipes and related infrastructure in all streets.

Any interim or temporary facilities as determined necessary by the Public Works Director

6.4.11.4 Sewer Collection Facilities

All sewer pipes and related infrastructure in all streets.
Any interim or temporary facilities as determined necessary by the Public Works Director.

6.4.11.5 Recycled Water Facilities

All recycled water pipes and related infrastructure for irrigations systems located in or on streets, public and private school sites (to property boundary line only), places of assembly including but not limited to religious facilities (to property boundary line only), and high density residential sites.

Provide up to a maximum of \$50,000 to partially fund the City of Lodi Recycled Water Master Plan Study.

6.4.11.6 Storm Drainage Facilities

All stormwater pipes and related infrastructure in all streets and basins.

All stormwater detention basins, control structures, pumping facilities and appurtenant piping and controls.

Any interim or temporary facilities as determined necessary by the Public Works Director.

Developer will be entitled to apply for reimbursement under Lodi Municipal Code Chapter 16.40 for benefit received by undeveloped properties as a result of the construction of the improvements required by this paragraph. Without limiting in any manner, the City Council's future exercise of its legislative discretion in the public hearing called for by Chapter 16.40, the parties anticipate that the benefited properties will be those set forth in Exhibit J. The parties also expressly acknowledge the final determination of benefited properties shall be determined pursuant to process set forth in Chapter 16.40.

6.4.11.7 Streets and Roads

Design and construct all streets within the Project Boundary as set forth in the Project Approvals.

Reconstruct Lodi Avenue west of Lower Sacramento Road to western project boundary.

Reconstruct Tokay Ave./Lower Sacramento Road intersection to accommodate wider street sections.

Pay Fair Share Cost payments for traffic mitigation measures identified in the Lodi Annexation Environmental Impact Report that are not projects within the Streets & Roads Fee Program.

With regard to the requirement to construct streets and roads, for sections of such streets and roads that are not wholly within the project site, necessary to satisfy the obligations set forth in this Agreement and the Project Approvals, Landowner will use its best efforts to acquire all necessary real property interests including, but not limited to, (1) submitting formal offer letters to all persons or entities who own or lease said property, (2) diligently pursuing implementation of any purchase agreement, (3) paying all amounts required pursuant to the purchase agreement in a timely manner consistent with the terms of the purchase agreement and will

then construct the streets or roads in compliance with the Project Approvals and any subsequent subdivisions maps. In the event Landowner is not able after its best efforts to acquire any necessary property, City and Landowner agree that City will consider all actions necessary to form an assessment district to provide the funds necessary for the City to acquire the necessary property, including through eminent domain as necessary, and Landowner agrees that upon the City complying with all requirements for consideration of formation of assessment district, Landowner shall, for all property within the proposed district that it owns or possesses the legal authority to vote on behalf of, vote in favor of formation of the assessment district. The parties agree that items to be included within the costs to be funded by the assessment district shall include, but not be limited to all costs, including attorneys fees necessary to acquire the necessary property interests, all design and engineering costs and all constructions costs.

Developer will be entitled to apply for reimbursement under Lodi Municipal Code Chapter 16.40 for benefit received by undeveloped properties as a result of the construction of the improvements required by this paragraph. Without limiting in any manner, the City Council's future exercise of its legislative discretion in the public hearing called for by Chapter 16.40, the parties anticipate that the benefited properties will be those set forth in Exhibit K. The parties also expressly acknowledge the final determination of benefited properties shall be determined pursuant to process set forth in Chapter 16.40.

6.4.12 Hutchins Street Square Endowment Within ten (10) years of the Effective Date of this Agreement, landowner shall pay the City Three Hundred Thousand U.S. Dollars (\$300,000) as an endowment for the maintenance and operations of costs of Hutchins Street Square.

6.4.13 Agreement with Citizens for Open Government Landowner shall comply with the terms of the Agreement to Amend Westside Development Agreement dated December 4, 2006 by and between the City, Citizens for Open Government and Landowner, a copy of which is attached hereto as Exhibit L and incorporated herein by reference.

6.5 Annexation

The ability to proceed with development of the Property pursuant to the Project Approvals shall be contingent upon the annexation of the Property into the City. Pending such annexation, Landowner may, at its own risk, process tentative parcel maps and tentative subdivision maps and improvement or construction plans and City may conditionally approve such tentative maps and/or improvement plans in accordance with the Entitlements, provided City shall not approve any final parcel map or final subdivision map for recordation nor approve the issuance of any grading permit for grading any portion of the Property or building permit for any structure within the Property prior to the annexation of the Property to the City.

City shall use its best efforts and due diligence to initiate such annexation process, obtain the necessary approvals and consummate the annexation of the Property into the City, including entering into any annexation agreement that may be required in relation thereto,

subject to the City's review and approval of the terms thereof. Landowner shall be responsible for the costs reasonably and directly incurred by the City to initiate, process and consummate such annexation, the payment of which shall be due in advance, based on the City's estimate of such cost, and thereafter as and when the City provides an invoice(s) for additional costs incurred by City therefore in excess of such estimate.

7. Applicable Rules, Regulations, Fees and Official Policies.

7.1. Rules Regarding Permitted Uses Except as provided in this Agreement, the City's ordinances, resolutions, rules, regulations and official policies governing the permitted uses of the Property, the density and intensity of use, the rate timing and sequencing of development, the maximum height and size of proposed buildings, and provisions for reservation and dedication of land shall be those in force on the Effective Date of this Agreement. Except as provided in Section 8.2, this Agreement does not vest Landowner's rights to pay development impact fees, exactions and dedications, processing fees, inspection fees, plan checking fees or charges.

7.2. Rules Regarding Design and Construction. The Project has been designed as a Planned Development pursuant to Chapter 17.33 of the Lodi Municipal Code. Design, improvements and construction standards shall be as set forth in Project Approvals including the Development Plan, and shall be vested for the term of this Agreement. Unless otherwise provided within the Development Plan or expressly provided in this Agreement, all other ordinances, resolutions, rules, regulations and official policies governing design, improvement and construction standards and specifications applicable to the Project and to public improvements to be constructed by the Landowner shall be those in force and effect at the time the applicable permit approval is granted.

7.3. Changes in State or Federal Law. This Agreement shall not preclude the application to development of the Property of changes in City laws, regulations, plans or policies, the terms of which are specifically mandated and required by changes in State or Federal laws or regulations. These changes may include any increase in an existing fee or imposition of a new fee that are necessary for the City or Landowner to comply with changes in State or Federal laws or regulations, including but not limited to sewer, water and stormwater laws or regulations.

7.4. Uniform Codes Applicable. Unless otherwise expressly provided in this Agreement, the Project shall be constructed in accordance with the provisions of the Uniform Building, Mechanical, Plumbing, Electrical and Fire Codes, City standard construction specifications, and Title 24 of the California Code of Regulations, relating to Building Standards, in effect at the time of approval of the appropriate building, grading, encroachment or other construction permits for the Project. If no permits are required for infrastructure improvements, such improvements will be constructed in accordance with the provisions of the Uniform Building, Mechanical, Plumbing, Electrical and Fire Codes, City standard construction specifications, and Title 24 of the California Code of Regulations, relating to Building Standards, in effect at the start of construction of such infrastructure.

8. Existing Fees, Newly Enacted Fees, Dedications, Assessments and Taxes.

8.1. Processing Fees and Charges. Landowner shall pay those processing, inspection, and plan check fees and charges required by City under then current regulations for processing applications and requests for permits, approvals and other actions, and monitoring compliance with any permits issued or approvals granted or the performance of any conditions with respect thereto or any performance required of Landowner hereunder.

8.2. Existing Fees, Exactions and Dedications Landowner shall be obligated to provide all dedications and exactions and pay all types of fees as required for the types of development authorized by the Project Approvals as of the Effective Date of this Agreement. With regards any fees applicable to residential development, the Parties agree that the fees shall be payable at the earliest time authorized pursuant to the Government Code Section 66007 as it exists as of the Effective Date of this Agreement. The specific categories of fees payable are listed below. The dedication and exaction obligations and fee amounts payable shall be those obligations and fee amounts applicable (indexed as set forth hereinbelow) as of the date that the Landowner's application for the applicable vesting tentative map is deemed complete. For any development for which the Landowner has not submitted a vesting tentative map, the dedication and exaction obligations and fee amounts payable shall be those obligations and fee amounts applicable (indexed as set forth hereinbelow) as of the date the final discretionary approval for that development is granted by the City.

Standard City Development Impact Fees Payable by the Landowner include:

1. Development Impact Fees (Lodi Municipal Code Chapter 15.64)
2. San Joaquin County Regional Transportation Impact Fee (Lodi Municipal Code Chapter 15.65)
3. County Facilities Fee (Lodi Municipal Code Chapter 15.66)
4. San Joaquin County Multi-Species Habitat Conservation and Open Space Development Fee (Lodi Municipal Code Chapter 15.68)

Any existing fees may be increased during the term of this Agreement provided that such increases are limited to annual indexing (i.e. per the Engineering News Record Index, or the CPI, or other index utilized by the City) and as provided in current fee ordinances. The initial adjustment shall be effective as of four years after the Effective Date of the Agreement and shall be calculated based on the difference in the applicable index from the numerical rate at the end of the month following the third year after the Effective Date and the numerical rate at the end of the month following the fourth year after the Effective Date. All subsequent increases shall be based on the annual change in the applicable index. Notwithstanding the preceding sentence, index adjustments to the fees set forth in subsections 2, 3 and 4 of this section shall be effective annually as set forth in the relevant ordinances and resolutions. Moreover, Landowner will be subject to the indexing called for above even if Landowner has filed a complete application for a Vesting Tentative Map and will not vest against such indexing until payment of the fees as called for in this Agreement.

8.3. New Development Impact Fees, Exactions and Dedications.

Landowner agrees to pay the development fees identified in Section 6.1, including specifically subsections 6.1.1 through 6.1.4, of this Agreement. With regards any fees applicable to residential development, the Parties agree that the fees shall be payable at the earliest time authorized pursuant to the Government Code Section 66007 as it exists as of the Effective Date of this Agreement.

Except as expressly provided herein, Landowner shall not be obligated to pay or provide any development impact fees, connection or mitigation fees, or exactions adopted by City after the Effective Date of this Agreement. Notwithstanding this limitation, Landowner may at its sole discretion elect to pay or provide any fee or exaction adopted after the Effective Date of this Agreement.

8.4. Fee Reductions To the extent that any fees payable pursuant to the requirements of Sections 8.1 are reduced after the operative date for determining the fee has occurred, the Landowner shall pay the reduced fee amount.

9. Community Facilities District. Formation of a Community Facilities District for Public Improvements and Services.

9.1. Inclusion in a Community Facilities District. Landowner agrees to cooperate in the formation of a Community Facilities District pursuant to Government Code Section 53311 et seq. to be formed by the City. The boundaries of the area of Community Facilities District shall be contiguous with the boundaries of the Property excluding the portion of land zoned for commercial or office development. Landowner agrees not to protest said district formation and agrees to vote in favor of levying a special tax on the Property in an amount not to exceed \$600 per year per single family attached or detached residential dwelling unit and \$175 per year for each attached multi-family rental unit as adjusted herein. The special tax shall be initiated for all residential dwelling units for which a building permit is issued, and shall commence to be levied beginning the subsequent fiscal year after the building permit is issued. Landowner acknowledges that the 2007-2008 special tax rate for the units in the Project will not exceed \$600 per single family attached or detached dwelling unit and \$175 per year for each attached multi-family rental unit and that the special tax shall increase each year by 2% in perpetuity. A vote by Landowner against the levying of the special tax or a vote to repeal or amend the special tax shall constitute an event of default under this Agreement.

9.2. Use of Community Facilities District Revenues Landowner and City agree that the improvements and services that may be provided with the special tax levied pursuant to Section 9.1 may be used for the following improvements and services:

- a. Police protection and criminal justice services;
- b. Fire protection, suppression, paramedic and ambulance services;
- c. Recreation and library program services;
- d. Operation and maintenance of museums and cultural facilities;

- e. Maintenance of park, parkways and open space areas dedicated to the City;
- f. Flood and storm protection services;
- g. Improvement, rehabilitation or maintenance of any real or personal property that has been contaminated by hazardous substances;
- h. Purchase, construction, expansion, improvement, or rehabilitation of any real or tangible property with useful life of more than five years; and,
- i. Design, engineering, acquisition or construction of public facilities with a useful life of more than five years including:
 - 1. Local park, recreation, parkway and open-space facilities,
 - 2. Libraries,
 - 3. Childcare facilities,
 - 4. Water transmission and distribution facilities, natural gas, telephone, energy and cable television lines, and
 - 5. Government facilities.

Landowner and City agree that Property does not presently receive any of these services from the City and that all of these services are new services.

9.3. Community Facilities District for Residential Property - Financing.

In addition to the funding provided as part of the Community Facilities District identified in Section 9.1, City acknowledges that Landowner may desire to finance the acquisition or construction of a portion of the improvements described in Section 8.2 through the Community Facilities District. The costs associated with the items identified in Section 8.2 shall be in addition to the annual cost imposed to comply with Section 9.1. The following provisions shall apply to any to the extent that the Landowner desires to fund any of the improvements set forth in Section 8.2 through the Community Facilities District:

- 9.3.1 Issuance of Bonds.** City and Landowner agree that, with the consent of Landowner, and to the extent permitted by law, City and Landowner shall use their best efforts to cause bonds to be issued in amounts sufficient to achieve the purposes of this Section.
- 9.3.2 Payment Prior to Issuance of Bonds.** Nothing in this Agreement shall be construed to preclude the payment by an owner of any of the parcels to be included within the CFD of a cash amount equivalent to its proportionate share of costs for the improvements identified in Section 8.2, or any portion thereof, prior to the issuance of bonds.
- 9.3.3 Private Financing.** Nothing in this Agreement shall be construed to limit Landowner's option to install the improvements through the use of private financing.

9.3.4

Acquisition and Payment. City agrees that it shall use its best efforts to allow and facilitate monthly acquisition of completed improvements or completed portions thereof, and monthly payment of appropriate amounts for such improvements to the person or entity constructing improvements or portions thereof, provided City shall only be obligated to use CFD bond or tax proceeds for such acquisitions.

10. Processing of Subsequent Development Applications and Building Permits

Subject to Landowner's compliance with the City's application requirements including, specifically, submission of required information and payment of appropriate fees, and assuming Landowner is not in default under the terms and conditions of this Agreement, the City shall process Landowner's subsequent development applications and building permit requests in an expeditious manner. In addition, City agrees that upon payment of any required City fees or costs, City will designate or retain, as necessary, appropriate personnel and consultants to process Landowner's development applications and building permit requests City approvals in an expeditious manner.

11. Reserved

11. Amendment or Cancellation.

11.1. Modification Because of Conflict with State or Federal Laws. In the event that State or Federal laws or regulations enacted after the Effective Date of this Agreement prevent or preclude compliance with one or more provisions of this Agreement or require changes in plans, maps or permits approved by the City, the parties shall meet and confer in good faith in a reasonable attempt to modify this Agreement to comply with such federal or State law or regulation. Any such amendment or suspension of the Agreement shall be approved by the City Council in accordance with the Municipal Code and this Agreement.

11.2. Amendment by Mutual Consent. This Agreement may be amended in writing from time to time by mutual consent of the parties hereto and in accordance with the procedures of State law and the Municipal Code.

11.3. Insubstantial Amendments. Notwithstanding the provisions of the preceding Section 11.2, any amendments to this Agreement which do not relate to (a) the term of the Agreement as provided in Section 5.2; (b) the permitted uses of the Property as provided in Sections 6.2 and 7.1; (c) provisions for reservation or dedication of land; (d) the location and maintenance of on-site and off-site improvements; (e) the density or intensity of use of the Project; (9) the maximum height or size of proposed buildings or (g) monetary contributions by Landowner as provided in this Agreement shall not, except to the extent otherwise required by law, require notice or public hearing before either the Planning Commission or the City Council before the parties may execute an amendment hereto.

11.4. Amendment of Project Approvals. Any amendment of Project Approvals relating to: (a) the permitted use of the Property; (b) provision for reservation or dedication of land; (c) the density or intensity of use of the Project; (d) the maximum height or size of proposed buildings; (e) monetary contributions by the Landowner; (f) the location and maintenance of on-site and off-site improvements; or (g) any other issue or subject not identified as an "insubstantial amendment" in Section 11.3 of this Agreement, shall require an amendment of this Agreement. Such amendment shall be limited to those provisions of this Agreement, which are implicated by the amendment of the Project Approval. Any other amendment of the Project Approval(s) shall not require amendment of this Agreement unless the amendment of the Project Approval(s) relates specifically to some provision of this Agreement.

11.5. Cancellation by Mutual Consent. Except as otherwise permitted herein, this Agreement may be canceled in whole or in part only by the mutual consent of the parties or their successors in interest, in accordance with the provisions of the Municipal Code. Any fees paid pursuant to this Agreement prior to the date of cancellation shall be retained by City.

12. Term of Project Approvals. Pursuant to California Government Code Section 66452.6(a), the term of any parcel map or tentative subdivision map shall automatically be extended for the term of this Agreement.

13. Annual Review.

13.1. Review Date. The annual review date for this Agreement shall occur either within the same month each year as the month in which the Agreement is executed or the month immediately thereafter.

13.2. Initiation of Review. The City's Planning Director shall initiate the annual review by giving to Landowner written notice that the City intends to undertake such review. Within thirty (30) days of City's notice, Landowner shall provide evidence to the Planning Director to demonstrate good faith compliance with the Development Agreement. The burden of proof, by substantial evidence of compliance, is upon the Landowner. The City's failure to timely initiate the annual review is not deemed to be a waiver of the right to do so at a later date; accordingly, Landowner is not deemed to be in compliance with the Agreement by virtue of such failure to timely initiate review.

13.3. Staff Reports. City shall deposit in the mail to Landowner a copy of all staff reports, and related Exhibits, concerning contract performance at least three (3) days prior to any annual review.

13.4. Costs. Costs reasonably incurred by the City in connection with the annual review shall be paid by Landowner in accordance with the City's schedule of fees and billing rates in effect at the time of review.

13.5. Non-compliance with Agreement; Hearing. If the Planning Director determines, on the basis of substantial evidence, that Landowner has not complied in good faith

with the terms and conditions of the Agreement during the period under review, the City Council, upon receipt of any report or recommendation from the Planning Commission, may initiate proceedings to modify or terminate the Agreement, at which time an administrative hearing shall be conducted, in accordance with the procedures of State law. As part of that final determination, the City Council may impose conditions that it considers necessary and appropriate to protect the interest of the City.

13.6. Appeal of Determination. The decision of the City Council as to Landowner's compliance shall be final, and any Court action or proceeding to attack, review, set aside, void or annul any decision of the determination by the Council shall be commenced within thirty (30) days of the final decision by the City Council.

14. Default. Subject to any applicable extension of time, failure by any party to substantially perform any term or provision of this Agreement required to be performed by such party shall constitute a material event of default ("Event of Default"). For purposes of this Agreement, a party claiming another party is in default shall be referred to as the "Complaining Party," and the party alleged to be in default shall be referred to as the "Party in Default." A Complaining Party shall not exercise any of its remedies as the result of such Event of Default unless such Complaining Party first gives notice to the Party in Default as provided in Section 15.1.1, and the Party in Default fails to cure such Event of Default within the applicable cure period.

14.1. Procedure Regarding Defaults.

14.1.1. Notice. The Complaining Party shall give written notice of default to the Party in Default, specifying the default complained of by the Complaining Party. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.

14.1.2. Cure. The Party in Default shall diligently endeavor to cure, correct or remedy the matter complained of, provided such cure, correction or remedy shall be completed within the applicable time period set forth herein after receipt of written notice (or such additional time as may be deemed by the Complaining Party to be reasonably necessary to correct the matter).

14.1.3. Failure to Assert. Any failures or delays by a Complaining Party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by a Complaining Party in asserting any of its rights and remedies shall not deprive the Complaining Party of its right to institute and maintain any actions or proceedings, which it may deem necessary to protect, assert, or enforce any such rights or remedies.

14.1.4. Notice of Default. If an Event of Default occurs prior to exercising any remedies, the Complaining Party shall give the Party in Default written notice of such default. If the default is reasonably capable of being cured within thirty (30) days, the Party in Default shall have such period to effect a cure prior to exercise of remedies by the

Complaining Party. If the nature of the alleged default is such that it cannot, practicably be cured within such thirty (30) day period, the cure shall be deemed to have occurred within such thirty (30) day period if: (a) the cure shall be commenced at the earliest practicable date following receipt of the notice; (b) the cure is diligently prosecuted to completion at all times thereafter; (c) at the earliest practicable date (in no event later than thirty (30) days after the curing party's receipt of the notice), the curing party provides written notice to the other party that the cure cannot practicably be completed within such thirty (30) day period; and (d) the cure is completed at the earliest practicable date. In no event shall Complaining Party be precluded from exercising remedies if a default is not cured within ninety (90) days after the first notice of default is given.

14.1.5. Legal Proceedings. Subject to the foregoing, if the Party in Default fails to cure a default in accordance with the foregoing, the Complaining Party, at its option, may institute legal proceedings pursuant to this Agreement or, in the event of a material default, terminate this Agreement. Upon the occurrence of an Event of Default, the parties may pursue all other remedies at law or in equity, which are not otherwise provided for or prohibited by this Agreement, or in the City's regulations if any governing development agreements, expressly including the remedy of specific performance of this Agreement.

14.1.6. Effect of Termination. If this Agreement is terminated following any Event of Default of Landowner or for any other reason, such termination shall not affect the validity of any building or improvement within the Property which is completed as of the date of termination, provided that such building or improvement has been constructed pursuant to a building permit issued by the City. Furthermore, no termination of this Agreement shall prevent Landowner from completing and occupying any building or other improvement authorized pursuant to a valid building permit previously issued by the City that is under construction at the time of termination, provided that any such building or improvement is completed in accordance with said building permit in effect at the time of such termination.

15. Estoppel Certificate. Either Party may, at any time, and from time to time, request written notice from the other Party requesting such Party to certify in writing that, (a) this Agreement is in full force and effect and a binding obligation of the Parties; (b) this Agreement has not been amended or modified either orally or in writing, or if so amended, identifying the amendments; and (c) to the knowledge of the certifying Party the requesting Party is not in default in the performance of its obligations under this Agreement, or if in default, to describe therein the nature and amount of any such defaults. A Party receiving a request hereunder shall execute and return such certificate within thirty (30) days following the receipt thereof, or such longer period as may reasonably be agreed to by the Parties. City Manager of City shall be authorized to execute any certificate requested by Landowner. Should the party receiving the request not execute and return such certificate within the applicable period, this shall not be deemed to be a default.

16. Mortgagee Protection; Certain Rights of Cure.

16.1. Mortgagee Protection. This Agreement shall be superior and senior to any lien placed upon the Property, or any portion thereof after the date of recording this

Agreement, including the lien for any deed of trust or mortgage ("Mortgage"). Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all the terms and conditions contained in this Agreement shall be binding upon and effective against any person or entity, including any deed of trust beneficiary or mortgagee ("Mortgagee") who acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

16.2. Mortgagee Not Obligated. Notwithstanding the provisions of Section 17.1 above, no Mortgagee shall have any obligation or duty under this Agreement, before or after foreclosure or a deed in lieu of foreclosure, to construct or complete the construction of improvements, or to guarantee such construction of improvements, or to guarantee such construction or completion, or to pay, perform or provide any fee, dedication, improvements or other exaction or imposition; provided, however, that a Mortgagee shall not be entitled to devote the Property to any uses or to construct any improvements thereon, authorized by the Project Approvals or by this Agreement, unless Mortgagee agrees to and does construct or complete the construction of improvements, or guarantees such construction of improvements, or pays, performs or provides any fee, dedication, improvements or other exaction or imposition as required by the Project Approvals.

16.3. Notice of Default to Mortgagee and Extension of Right to Cure. If City receives notice from a Mortgagee requesting a copy of any notice of default given Landowner hereunder and specifying the address for service thereof, then City shall deliver to such Mortgagee, concurrently with service thereon to Landowner, any notice given to Landowner with respect to any claim by City that Landowner has committed an Event of Default. Each Mortgagee shall have the right during the same period available to Landowner to cure or remedy, or to commence to cure or remedy, the Event of Default claimed set forth in the City's notice. City, through its City Manager, may extend the cure period provided in Section 15.1.2 for not more than an additional sixty (60) days upon request of Landowner or a Mortgagee.

17. Severability. Except as set forth herein, if any term, covenant or condition of this Agreement or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to persons, entities or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law; provided, however, if any provision of this Agreement is determined to be invalid or unenforceable and the effect thereof is to deprive a Party hereto of an essential benefit of its bargain hereunder, then such Party so deprived shall have the option to terminate this entire Agreement from and after such determination.

18. Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

19. Attorneys' Fees and Costs in Legal Actions BY Parties to the Agreement. Should any legal action be brought by either party for breach of this Agreement or to enforce

any provisions herein, the prevailing party to such action shall be entitled to reasonable attorneys' fees, court costs, and such other costs as may be fixed by the Court.

20. Attorneys' Fees and Costs in Legal Actions By Third Parties to the Agreement and Continued Permit Processing. If any person or entity not a party to this Agreement initiates an action at law or in equity to challenge the validity of any provision of this Agreement or the Project Approvals, the parties shall cooperate and appear in defending such action. Landowner shall bear its own costs of defense as a real party in interest in any such action. Landowner shall reimburse City on an equal basis for all reasonable court costs and attorneys' fees expended by City in defense of any such action or other proceeding and shall pay any attorneys fees and costs that may be awarded to the third party or parties. The City agrees that in the event an action at law or in equity to challenge the validity of the Project Approvals is filed by a third party other than by a state or federal agency, the City will continue to process and approve permit applications that are consistent with and comply with the Project Approvals unless a court enjoins further processing of permit applications and issuance of permits.

21. Transfers and Assignments. From and after recordation of this Agreement against the Property, Landowner shall have the full right to assign this Agreement as to the Property, or any portion thereof, in connection with any sale, transfer or conveyance thereof, and upon the express written assignment by Landowner and assumption by the assignee of such assignment in the form attached hereto as Exhibit G, and the conveyance of Landowner's interest in the Property related thereto, Landowner shall be released from any further liability or obligation hereunder related to the portion of the Property so conveyed and the assignee shall be deemed to be the "Landowner," with all rights and obligations related thereto, with respect to such conveyed property. Prior to recordation of this Agreement, any proposed assignment of this Agreement by Landowner shall be subject to the prior written consent of the City Manager on behalf of the City and the form of such assignment shall be subject to the approval of the City Attorney, neither of which shall be unreasonably withheld.

22. Agreement Runs with the Land. Except as otherwise provided for in Section 15 of this Agreement, all of the provisions, rights, terms, covenants, and obligations contained in this Agreement shall be binding upon the parties and their respective heirs, successors and assignees, representatives, lessees, and all other persons acquiring the Property, or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions of this Agreement shall be enforceable as equitable servitude and shall constitute covenants running with the land pursuant to applicable laws, including, but not limited to, Section 1468 of the Civil Code of the State of California. Each covenant to do, or refrain from doing, some act on the Property hereunder, or with respect to any owned property; (a) is for the benefit of such properties and is a burden upon such properties; (b) runs with such properties; and (c) is binding upon each party and each successive owner during its ownership of such properties or any portion thereof, and shall be a benefit to and a burden upon each party and its property hereunder and each other person succeeding to an interest in such properties.

23. Bankruptcy. The obligations of this Agreement shall not be dischargeable in bankruptcy.

24. Indemnification. Landowner agrees to indemnify, defend and hold harmless City, and its elected and appointed councils, boards, commissions, officers, agents, employees, and representatives from any and all claims, costs (including legal fees and costs) and liability for (1) any personal injury or property damage which may arise directly or indirectly as a result of any actions or inactions by the Landowner, or any actions or inactions of Landowner's contractors, subcontractors, agents, or employees in connection with the construction, improvement, operation, or maintenance of the Property and the Project, provided that Landowner shall have no indemnification obligation with respect to the gross negligence or willful misconduct of City, its contractors, subcontractors, agents or employees or with respect to the maintenance, use or condition of any improvement after the time it has been dedicated to and accepted by the City or another public entity (except as provided in an improvement agreement or maintenance bond) and (2) any additional mitigation required, including but not limited to payment of any mitigation fees that may be imposed, as a result of a lawsuit filed by a third party challenging or seeking to invalidate the Project Approvals.

25. Insurance.

25.1. Public Liability and Property Damage Insurance. At all times that Landowner is constructing any improvements that will become public improvements, Landowner shall maintain in effect a policy of comprehensive general liability insurance with a per-occurrence combined single limit of not less than two million (\$2,000,000) dollars and a deductible of not more than fifty thousand (\$50,000) dollars per claim. The policy so maintained by Landowner shall name the City as an additional insured and shall include either a severability of interest clause or cross-liability endorsement.

25.2. Workers' Compensation Insurance. At all times that Landowner is constructing any improvements that will become public improvements, Landowner shall maintain Workers' Compensation insurance for all persons employed by Landowner for work at the Project site. Landowner shall require each contractor and subcontractor similarly to provide Workers' Compensation insurance for its respective employees. Landowner agrees to indemnify the City for any damage resulting from Landowner's failure to maintain any such insurance.

25.3. Evidence of Insurance. Prior to commencement of construction of any improvements which will become public improvements, Landowner shall furnish City satisfactory evidence of the insurance required in Sections 26.1 and 26.2 and evidence that the carrier is required to give the City at least fifteen (15) days prior written notice of the cancellation or reduction in coverage of a policy. The insurance shall extend to the City, its elective and appointive boards, commissions, officers, agents, employees and representatives and to Landowner performing work on the Project.

26. Excuse for Nonperformance. Landowner and City shall be excused from performing any obligation or undertaking provided in this Agreement, except any obligation to pay any sum of money under the applicable provisions hereof, in the event and so long as the performance of any such obligation is prevented or delayed, retarded or hindered by act of God,

fire, earthquake, flood, explosion, action of the elements, war, invasion, insurrection, riot, mob violence, sabotage, inability to procure or general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts, condemnation, requisition, laws, orders of governmental, civil, military or naval authority, or any other cause, whether similar or dissimilar to the foregoing, not within the control of the Party claiming the extension of time to perform. The Party claiming such extension shall send written notice of the claimed extension to the other Party within thirty (30) days from the commencement of the cause entitling the Party to the extension.

27. Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Landowner and, the City and their successors and assigns. No other person shall have any right of action based upon any provision in this Agreement.

28. Notices. All notices required by this Agreement, the enabling legislation, or the procedure adopted pursuant to Government Code Section 65865, shall be in writing and delivered in person or sent by certified mail, postage prepaid.

Notice required to be given to the City shall be addressed as follows:

CITY OF LODI
City Manager
P.O. Box 3006
Lodi, CA 95241-1910

Notice required to be given to the Landowner shall be addressed as follows:

FRONTIER COMMUNITY BUILDERS, INC.
TOM DOUCETTE
10100 TRINITY PARKWAY, SUITE 420
STOCKTON, CA 95219

Either party may change the address stated herein by giving notice in writing to the other party, and thereafter notices shall be addressed and transmitted to the new address.

29. Form of Agreement; Recordation; Exhibits. Except when this Agreement is automatically terminated due to the expiration of the Term of the Agreement or the provisions of Section 5.3 (Automatic Termination Upon Completion and Sale of Residential Lot), the City shall cause this Agreement, any amendment hereto and any other termination of any parts or provisions hereof, to be recorded, at Landowner's expense, with the county Recorder within ten (10) days of the effective date thereof. Any amendment or termination of this Agreement to be recorded that affects less than all of the Property shall describe the portion thereof that is the subject of such amendment or termination. This Agreement is executed in three duplicate originals, each of which is deemed to be an original. This Agreement consists of 30 pages and 41 Exhibit pages, which constitute the entire understanding and agreement of the parties.

30. **Further Assurances.** The Parties agree to execute such additional instruments and to undertake such actions as may be necessary to effectuate the intent of this Agreement.

31. **City Cooperation.** The City agrees to cooperate with Landowner in securing all permits which may be required by City. In the event State or Federal laws or regulations enacted after the Effective Date, or action of any governmental jurisdiction, prevent delay or preclude compliance with one or more provisions of this Agreement, or require changes in plans, maps or permits approved by City, the parties agree that the provisions of this Agreement shall be modified, extended, or suspended as may be necessary to comply with such State and Federal laws or regulations or the regulations of other governmental jurisdictions. Each party agrees to extend to the other its prompt and reasonable cooperation in so modifying this Agreement or approved plans.

IN WITNESS WHEREOF, the City of Lodi, a municipal corporation, has authorized the execution of this Agreement in duplicate by its Mayor and attested to by its City Clerk under the authority of Ordinance No. 1794, adopted by the City Council of the City of Lodi on the 4th day of April, 2007, and Landowner has caused this Agreement to be executed.

"CITY"

CITY OF LODI,
a municipal corporation

By:  _____

Name: Blair King

Its: City Manager

"LANDOWNER"


FRONTIER COMMUNITY BUILDERS, INC.

By:  _____

Name: Tom Doucette

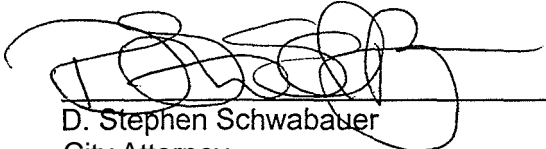
Its: President

ATTEST:



Randi Juhl, City Clerk

APPROVED AS TO FORM:



D. Stephen Schwabauer
City Attorney

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

STATE OF California)SS
COUNTY OF San Joaquin)

File No: ()
APN No:

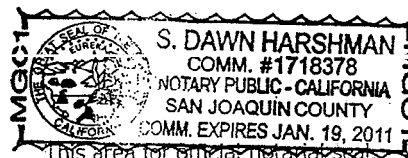
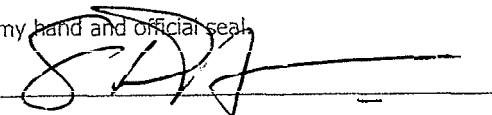
On 7/29/2008 before me, S. Dawn Harshman, Notary Public, personally appeared

Thomas P. Doucette who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



OPTIONAL SECTION CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the documents.

- ☐ INDIVIDUAL
☒ CORPORATE OFFICER(S) TITLE(S) President
☐ PARTNER(S) ☐ LIMITED ☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER

SIGNER IS REPRESENTING:

Frontiers Community Builders
Name of Person or Entity

Name of Person or Entity

OPTIONAL SECTION

Though the data requested here is not required by law, it could prevent fraudulent reattachment of this form.

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED BELOW

TITLE OR TYPE OF DOCUMENT: Westside, Agreement
NUMBER OF PAGES 15 DATE OF DOCUMENT 7/29/2008

SIGNER(S) OTHER THAN NAMED ABOVE Blair King, Randi Johl, D. Stephen Schwabauer

Reproduced by <!!Table Field EONAME Not Found!!> 11/2007

30. **Further Assurances.** The Parties agree to execute such additional instruments and to undertake such actions as may be necessary to effectuate the intent of this Agreement.

31. **City Cooperation.** The City agrees to cooperate with Landowner in securing all permits which may be required by City. In the event State or Federal laws or regulations enacted after the Effective Date, or action of any governmental jurisdiction, prevent delay or preclude compliance with one or more provisions of this Agreement, or require changes in plans, maps or permits approved by City, the parties agree that the provisions of this Agreement shall be modified, extended, or suspended as may be necessary to comply with such State and Federal laws or regulations or the regulations of other governmental jurisdictions. Each party agrees to extend to the other its prompt and reasonable cooperation in so modifying this Agreement or approved plans.

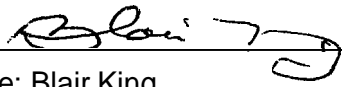
IN WITNESS WHEREOF, the City of Lodi, a municipal corporation, has authorized the execution of this Agreement in duplicate by its Mayor and attested to by its City Clerk under the authority of Ordinance No. 1794, adopted by the City Council of the City of Lodi on the 4th day of April, 2007, and Landowner has caused this Agreement to be executed.

"CITY"

"LANDOWNER"

CITY OF LODI,
a municipal corporation

FRONTIER COMMUNITY BUILDERS, INC.

By:  _____

By: _____

Name: Blair King

Name: Tom Doucette

Its: City Manager

Its: President

ATTEST:

Randi Johl, City Clerk

APPROVED AS TO FORM:

D. Stephen Schwabauer
City Attorney

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Joaquin

On 10/14/2008 before me, Corina A. Farnsworth Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Blair King
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Corina A. Farnsworth
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Westside Development Agreement

Document Date: 10/14/2008 Number of Pages: _____

Signer(s) Other Than Named Above: Randi Johl, Stephen Schwabauer, Tom Doucette

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☒ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☒ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

EXHIBIT LIST

| | |
|--------------|--|
| Exhibit A-1: | Legal Description of the Property |
| Exhibit A-2: | Diagram of the Property |
| Exhibit B: | General Plan Land Use Map |
| Exhibit B-1: | Zoning Map for Project Site |
| Exhibit C-1: | Large Lot Tentative Subdivision Map |
| Exhibit C-2: | Reserved |
| Exhibit D: | Development Plan and Infrastructure Map for the Property |
| Exhibit E: | Growth Management Allocations |
| Exhibit F: | Annexation Approvals |
| Exhibit G: | Form of Assignment |
| Exhibit H: | Schedule of Improvements |
| Exhibit I: | Park Improvements |
| Exhibit J: | Required Park Amenities |
| Exhibit K | Benefited Properties |
| Exhibit L | Agreement to Amend Westside Development Agreement |

EXHIBIT A-1

LEGAL DESCRIPTION OF THE PROPERTY

The land referred to herein is situated in the State of California, County of San Joaquin, City of Lodi, and is described as follows:

**DESCRIPTION OF
WESTSIDE ANNEXATION
TO THE CITY OF LODI
SAN JOAQUIN COUNTY, CALIFORNIA**

A portion of Section 3 and a portion of Section 10, Township 3 North, Range 6 East, Mount Diablo Base and Meridian, County of San Joaquin, State of California, being more particularly described as follows:

BEGINNING at the section corner common to Sections 3, 4, 9 and 10, Township 3 North, Range 6 East, Mount Diablo Base and Meridian, also being a point in the centerline of Sargent Road; thence along the west line of said Section 3, (1) North 00°07'29" East, 1856.45 feet to a point on the northeasterly line of the Woodbridge Irrigation District (W.I.D.) Canal, also being a point on the Lodi City Limit line; thence along said City Limit line the following seven (7) courses (being courses 2 through 8): (2) South 55°12'21" East, 3162.42 feet to a point on the west right-of-way line of Lower Sacramento Road, said point being 40.00 feet west (measured at right angles) of the North-South quarter section line of said Section 3; (3) South 00°10'01" West, 22.95 feet; (4) North 89°12'20" West, 145.06 feet; (5) South 55°12'21" East, 54.76 feet; (6) South 00°10'01" West, 14.38 feet to a point on the north right-of-way line of Sargent Road, said point being 20.00 feet north (measured at right angles) of the north line of the northwest quarter of said Section 10; (7) North 89°12'20" West, 808.68 feet along said north right-of-way line; and (8) South 00°02'09" West, parallel with the west line of said Section 10, a distance of 2661.70 feet to the East-West quarter section line of said Section 10, also being a point on the westerly terminus of Vine Street; thence leaving said City Limit line and running along said East-West quarter section line, (9) North 89°12'29" West, 1692.40 feet to the west quarter section corner of said Section 10; thence along

May 21, 2007

the west line of said Section 10, (10) North 00'02'09" East, 2641.77 feet to the POINT OF BEGINNING.

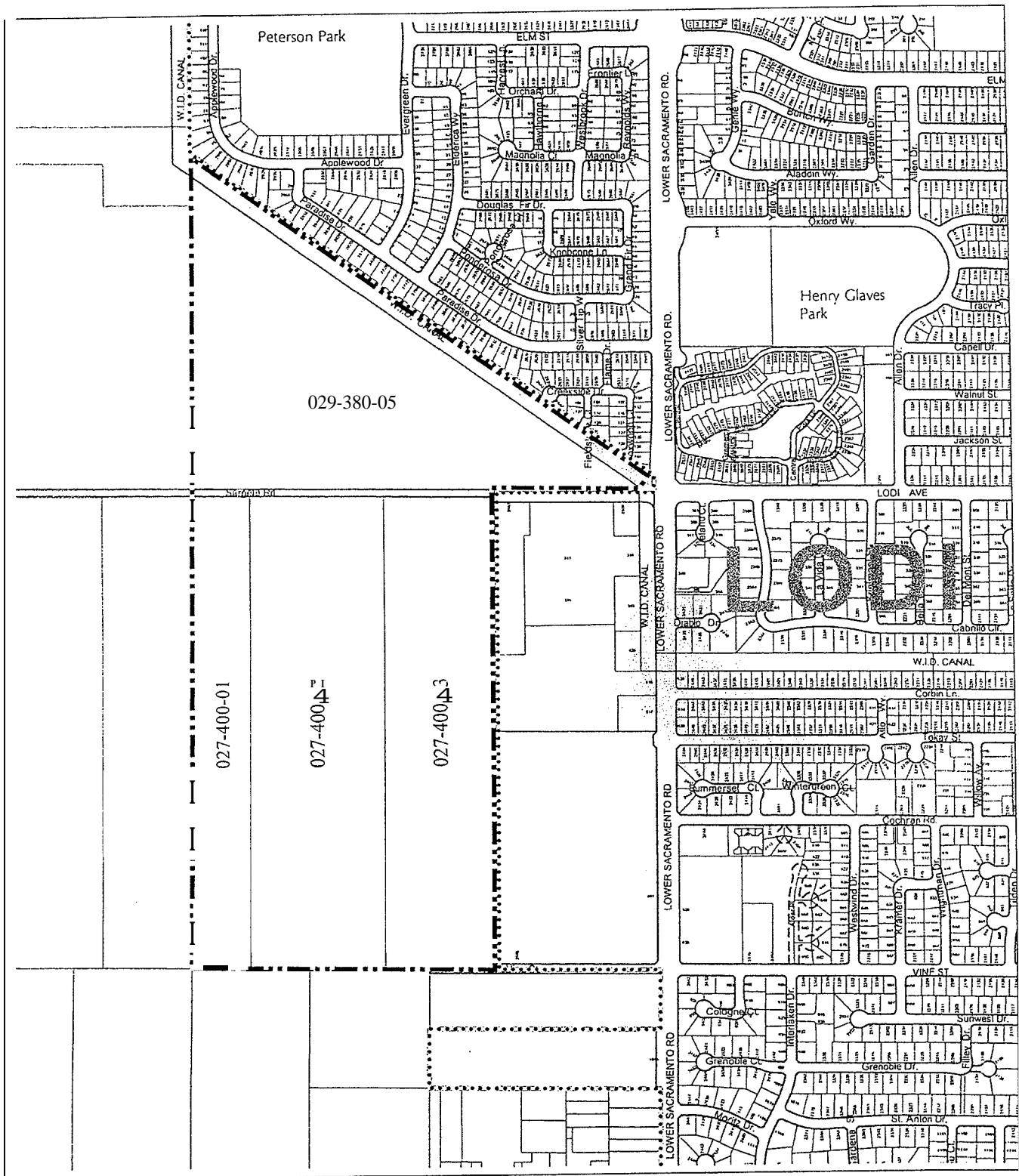
The bearing of North 89'12'20" West for the north line of the northwest quarter of said Section 10 as shown on that certain map filed for record in Book 22 of Parcel Maps, Page 124, San Joaquin County Records was used for the basis of bearings for all courses in this description.

Containing 160 acres, more or less.

Dated: 5.21.07

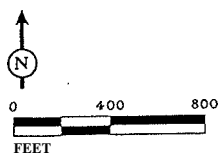


EXHIBIT A-2
DIAGRAM OF THE PROPERTY



LSA

FIGURE 111-4



WESTSIDE
PROJECT SITE
CITY LIMITS

Lodi Annexion EIR
Parcels Within the
Westside Project Area

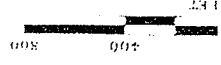
SOURCE: CITY OF LODI, 2005.

I:\LOD531 wside swgate\figures\Fig_1114.ai (3/3/06)

EXHIBIT B

GENERAL PLAN LAND USE MAP

SA



City of Los Angeles
Department of Planning
Planning Division
1000 West Washington Blvd., Suite 1000
Los Angeles, CA 90015
Tel: (213) 473-1000
Fax: (213) 473-1001
E-mail: info@cityofla.org

General Plan Designations

FIGURE IV-A-3

- LDR LOW DENSITY RESIDENTIAL
- MDR MEDIUM DENSITY RESIDENTIAL
- HDR HIGH DENSITY RESIDENTIAL
- PR PLANNED RESIDENTIAL
- NCC NEIGHBORHOOD COMMUNITY COMMERCIAL
- GC GENERAL COMMERCIAL
- DC DOWNTOWN COMMERCIAL
- OFFICE
- POP PUBLIC QUASIPUBLIC
- DRP DETENTION BASINS AND PARKS
- AGRICULTURAL
- PLANNED RESIDENTIAL RESERVE

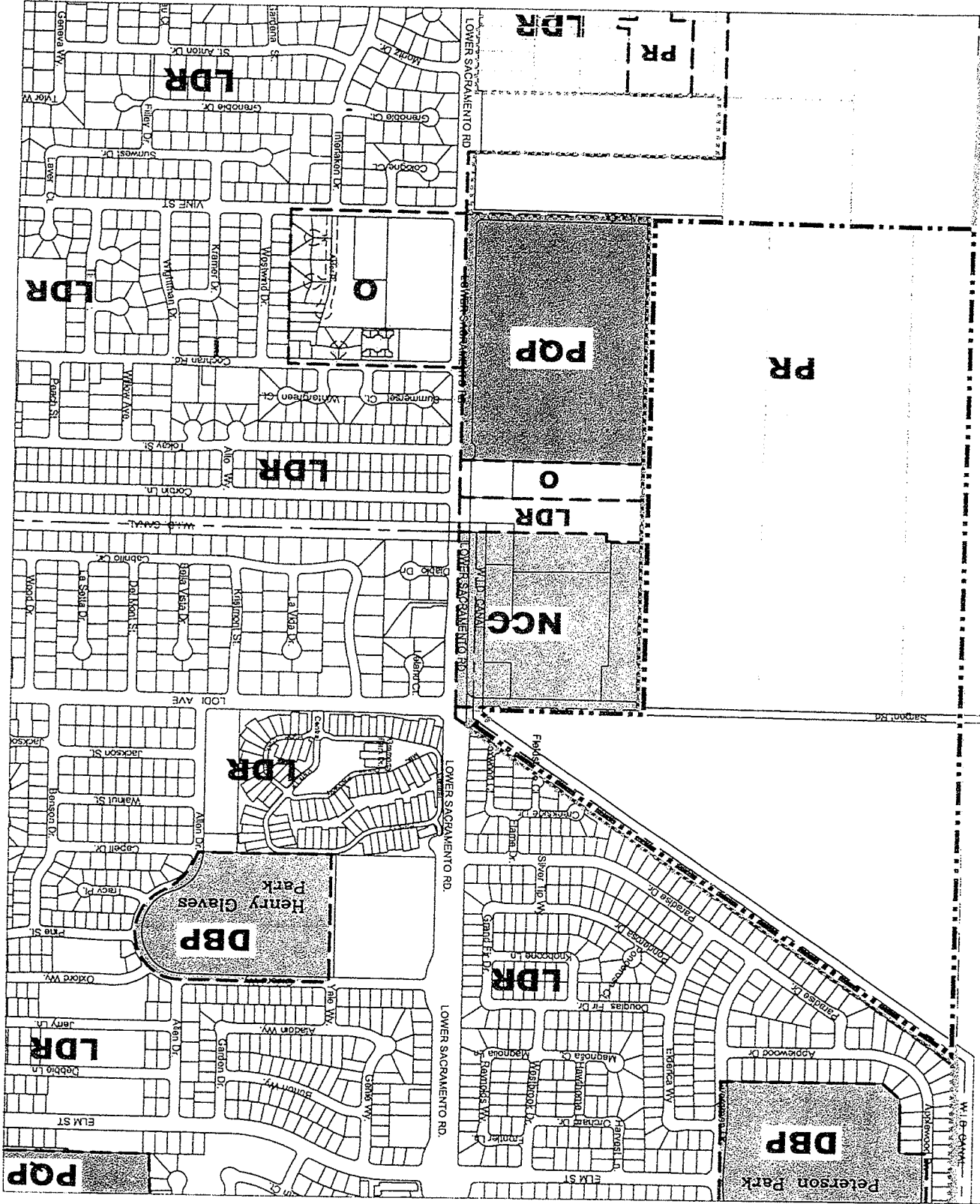
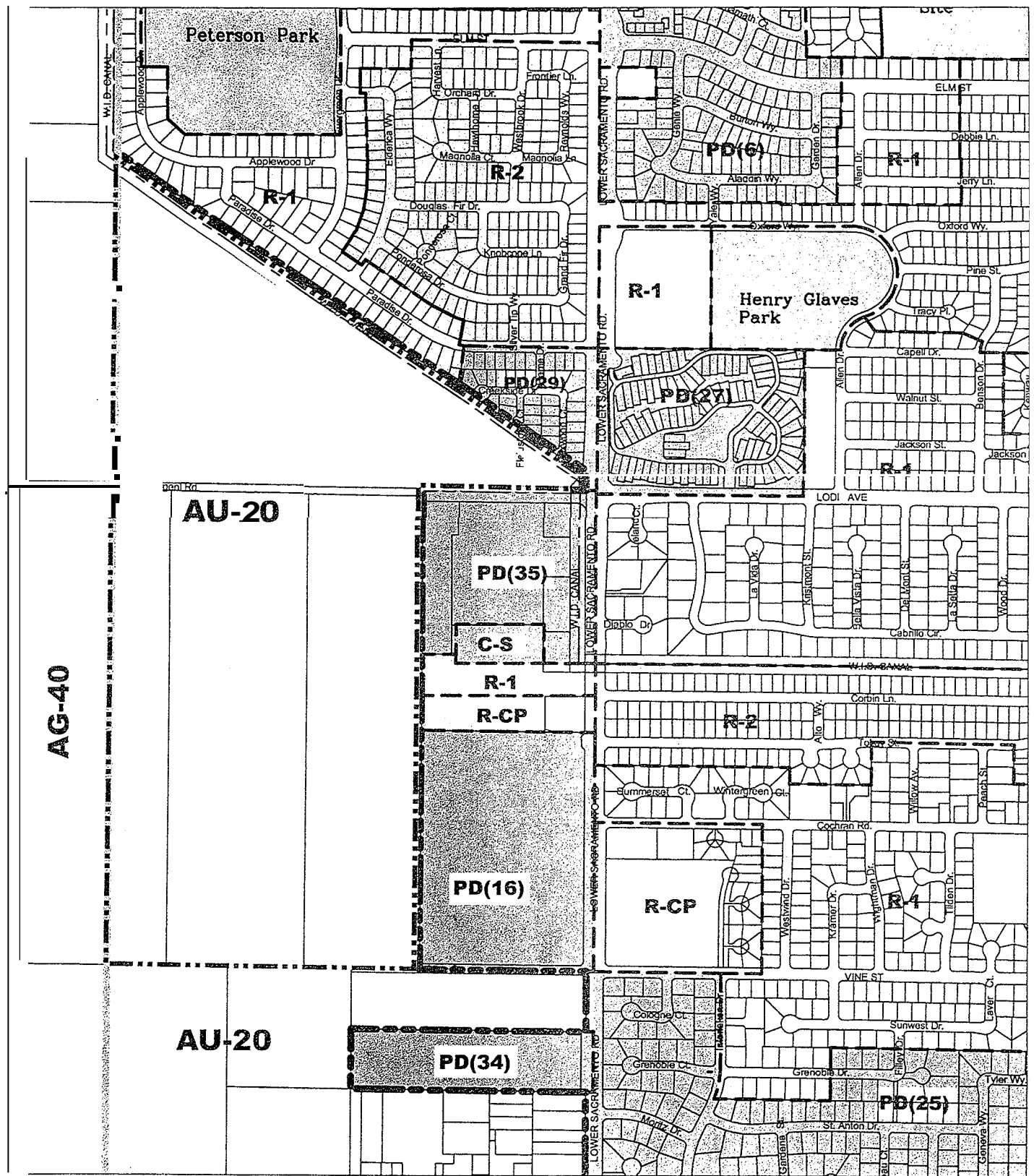
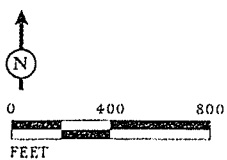


EXHIBIT B-1

ZONING MAP FOR PROJECT SITE



LSA



- - - - - WESTSIDE PROJECT SITE
 - - - - - CITY LIMITS
 - - - - - SPHERE OF INFLUENCE

LODI ZONING

R-1 SINGLE FAMILY
 R-2 SINGLE FAMILY
 P-D PLANNED DEVELOPMENT
 R-CP PROFESSIONAL OFFICES
 C-S SHOPPING CENTER
 PUB PUBLIC

SAN JOAQUIN COUNTY ZONING

AU-20 AGRICULTURE, URBAN RESERVE, MINIMUM 20 ACRES
 AG-40 GENERAL AGRICULTURE, MINIMUM 40 ACRES

FIGURE IV.A-5

Lodi Annexation EIR
Zoning Designations

SOURCE: CITY OF LODI, 2005.

I:\LOD531\wsd\swgate\figures\Fig IV.A5.ai (3/3/06)

EXHIBIT C-1

Large Lot Tentative Subdivision Map

859464-6
Final Version 11/07/2007

EXHIBIT C-2

Reserved

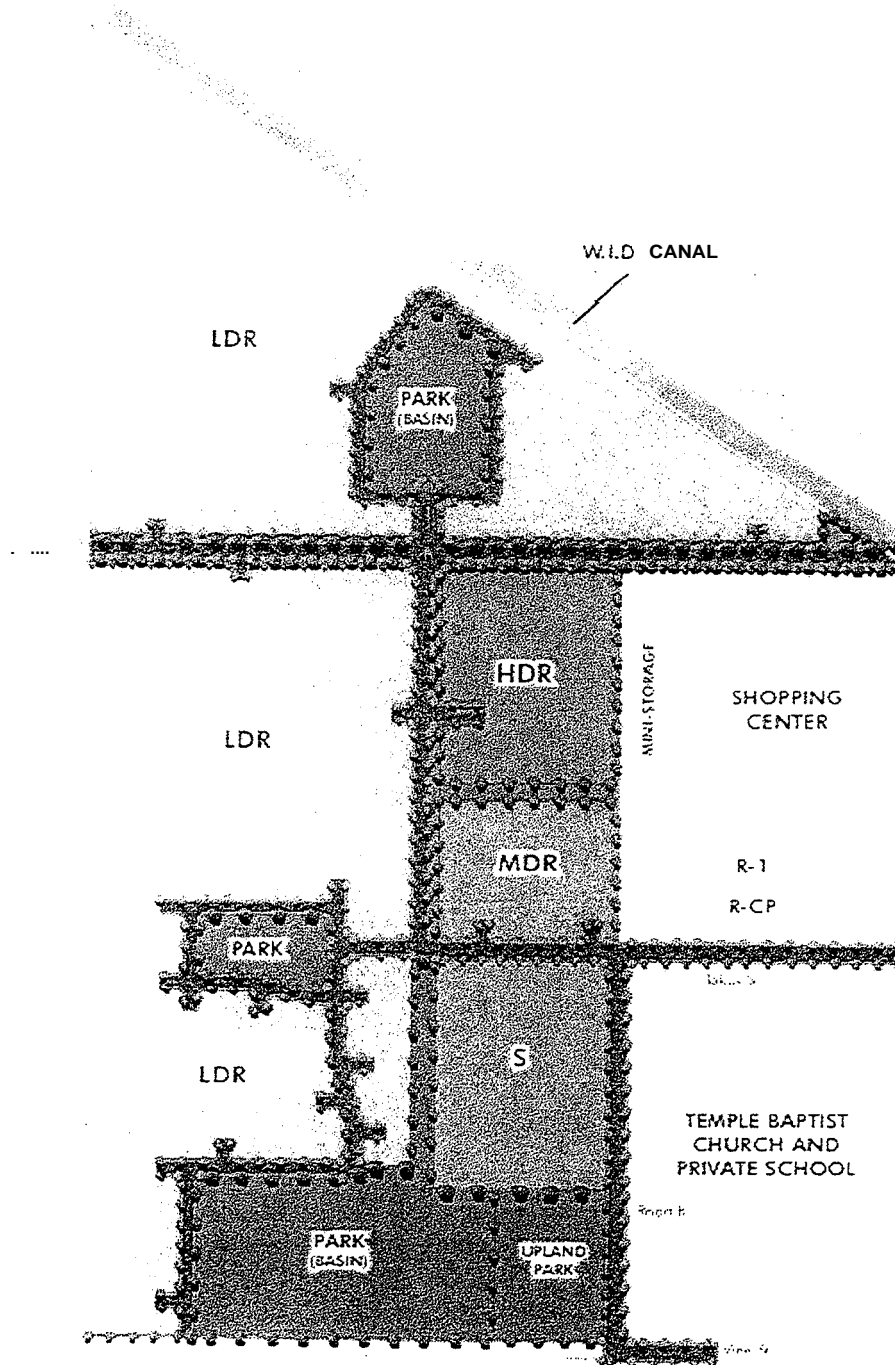
EXHIBIT D

DEVELOPMENT PLAN AND INFRASTRUCTURE MAP FOR THE PROPERTY

859464-6

Final Version 11/07/2007

Westside Land Use Plan



The Development Plan and Infrastructure Plan for the Development will be consistent with the approved City of Lodi Master Plans and subject to subsequent approval.

EXHIBIT E

WESTSIDE PROJECT GROWTH MANAGEMENT ALLOCATION TABLE

| Applicable Date | Allocation |
|--|--|
| Effective Date of Development Agreement | 215 Low Density Units (Reserve) |
| Within the Calendar Year One Year after the Effective Date | 70 Medium Density Units |
| Within the Calendar Year Two Years after Effective Date | 180 High Density Units 40 Low Density Units |
| Within the Calendar Year Three Years after Effective Date | 40 Low Density Units |
| Within the Calendar Year Four Years after Effective Date | 40 Low Density Units |
| Within the Calendar Year Five Years after Effective Date | 40 Low Density Units |
| Within the Calendar Year Six Years after Effective Date | 40 Low Density Units |
| Within the Calendar Year Seven Years after Effective Date | 40 Low Density Units |
| Within the Calendar Year Eight Years after Effective Date | 40 Low Density Units |

EXHIBIT F
ANNEXATION APPROVALS

859464-6
Final Version 11/07/2007

CERTIFICATE OF COMPLETION

San Joaquin LAFCo
1860 E. Hazelton Avenue
Stockton, CA 95205

Doc #: 2007-135792
7/26/07 3:50 PM
Page: 1 of 6 Fee: \$0
Gary W. Freeman
San Joaquin County Recorders
Paid By: SHOWN ON DOCUMENT



Short Form Designation:

WESTSIDE REORGANIZATION TO THE CITY OF LODI
(LAFC 04-07)

Annexation of 160 acres to the City of Lodi with concurrent detachment from the Woodbridge Fire Protection District and the San Joaquin County Resource Conservation District.

1. Filed pursuant to action by the City of Lodi
2. The name of each district or city involved in this change of organization or reorganization and the kind or type of change of organization ordered for each such city or district are as follows:

CITY OR DISTRICT

TYPE OF CHANGE OF ORGANIZATION

| | |
|---|------------|
| City of Lodi | Annexation |
| Woodbridge Fire Protection District | Detachment |
| San Joaquin County Resource Conservation District | Detachment |

3. The city or districts are located in the following county (ies): San Joaquin.
4. Boundary description for said formation or change has been attached as Exhibit A
5. Terms and conditions, if any, are provided in said resolution, attached.
6. I hereby certify that the action taken by adoption of the above cited resolution complies with the boundaries and conditions specified by the Local Agency Formation Commission of San Joaquin County in Resolution No. 1174.


JAMES E. GLASER, EXECUTIVE OFFICER
San Joaquin Local Agency Formation Commission

Completion Date: July 26, 2007

RESOLUTION NO. 1174

**BEFORE THE SAN JOAQUIN LOCAL AGENCY FORMATION COMMISSION
APPROVING THE WESTSIDE REORGANIZATION
TO THE CITY OF LODI (LAFC 04-07)**

WHEREAS, the above entitled proposal was initiated by filing by the City of Lodi, and on April 20, 2007, the Executive Officer certified the application filed for processing in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; and

WHEREAS, the Commission held a public hearing on the proposed reorganization on June 16, 2007, in the Board of Supervisors Chambers, County Courthouse, pursuant to notice of hearing which was posted and mailed in accordance with State law; and

WHEREAS, at said hearing the Commission heard and received evidence, both oral and written regarding the proposal, and all persons present were given an opportunity to be heard; and

WHEREAS, the City of Lodi approved an Environmental Impact Report for the project, pursuant to the California Environmental Quality Act (CEQA) and the State CEQA Guidelines:

WHEREAS, there is one Williamson Act Contract within the boundaries of the proposed annexation territory;

WHEREAS, the subject territory is uninhabited and has 100% owner-consent;

NOW, THEREFORE, the San Joaquin Local Agency Formation Commission DOES HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

Section 1. Certifies that, as a Responsible Agency, the Commission has reviewed and considered the City of Lodi's Environmental Impact Report (State Clearinghouse No. 2005092096) and adopts the CEQA Findings and Statement of Overriding Consideration as certified by the City of Lodi.

Section 2. Finds that the proposal is uninhabited and has 100% owner-consent.

Section 3. Determines, pursuant to Government Code Section 56754, the City of Lodi must succeed to the rights, duties, and powers of the Williamson Act Contract No. 720456.

Section 4. Approves the proposal as submitted to annex 160 acres to the City of Lodi with concurrent detachment from the Woodbridge Fire Protection District and the San Joaquin County Resource Conservation District, with the boundary description as approved by the County Surveyor, attached hereto as Exhibit A, subject to the following terms and conditions:


- a. The subject property is to remain within the boundaries of the Woodbridge Irrigation District.
- b. Pursuant to Government Code Section 56889, regarding Williamson Act Contract No. 720456, the City shall adopt the rules and procedures required by the Williamson Act, including but not limited to the rules and procedures required by Sections 51231, 51237 and 51237.5.

Section 6. Waive the protest proceedings, and direct the Executive Officer to complete the reorganization by filing a Certificate of Completion and a Statement of Boundary change for the Westside Reorganization to the City of Lodi.

PASSED AND ADOPTED this 16th day of June 2007 by the following roll call vote:


AYES: Commissioners Edward Chavez, Steven Nilssen, Jack Snyder, Ken Vogel, and Chairman Mow

NOES: None



VICTOR MOW, CHAIR
San Joaquin Local Agency
Fonnation Commission

THE FOREGOING IS A CORRECT COPY OF
THE ORIGINAL ON FILE IN THIS OFFICE

By: 
COMMISSION CLERK
Date: 07-23-07

DESCRIPTION OF
WESTSIDE ANNEXATION
TO THE CITY OF LODI
SAN JOAQUIN COUNTY, CALIFORNIA

A portion of Section 3 and a portion of Section 10, Township 3 North, Range 6 East, Mount Diablo Base and Meridian, County of San Joaquin, State of California, being more particularly described as follows:

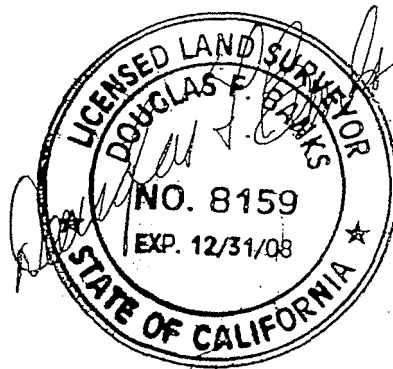
BEGINNING at the section corner common to Sections 3, 4, 9 and 10, Township 3 North, Range 6 East, Mount Diablo Base and Meridian, also being a point in the centerline of Sargent Road; thence along the west line of said Section 3, (1) North $00^{\circ}07'29''$ East, 1856.45 feet to a point on the northeasterly line of the Woodbridge Irrigation District (W.I.D.) Canal, also being a point on the Lodi City Limit line; thence along said City Limit line the following seven (7) courses (being courses 2 through 8): (2) South $55^{\circ}12'21''$ East, 3162.42 feet to a point on the west right-of-way line of Lower Sacramento Road, said point being 40.00 feet west (measured at right angles) of the North-South quarter section line of said Section 3; (3) South $00^{\circ}10'01''$ West, 22.95 feet; (4) North $89^{\circ}12'20''$ West, 145.06 feet; (5) South $55^{\circ}12'21''$ East, 54.76 feet; (6) South $00^{\circ}10'01''$ West, 14.38 feet to a point on the north right-of-way line of Sargent Road, said point being 20.00 feet north (measured at right angles) of the north line of the northwest quarter of said Section 10; (7) North $89^{\circ}12'20''$ West, 808.613 feet along said north right-of-way line; and (8) South $00^{\circ}02'09''$ West, parallel with the west line of said Section 10, a distance of 2661.70 feet to the East-West quarter section line of said Section 10, also being a point on the westerly terminus of Vine Street; thence leaving said City Limit line and running along said East-West quarter section line, (9) North $89^{\circ}12'29''$ West, 1692.40 feet to the west quarter section corner of said Section 10; thence along

the west line of said Section 10, (10) North 00°02'09" East, 2641.77 feet to the POINT OF BEGINNING.

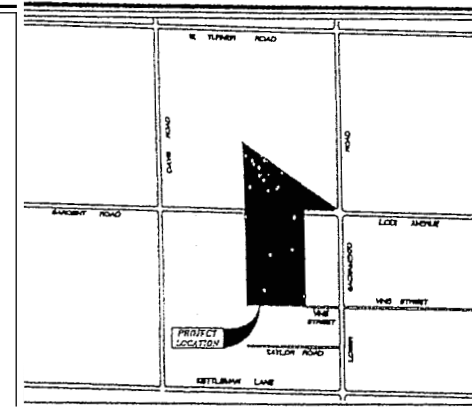
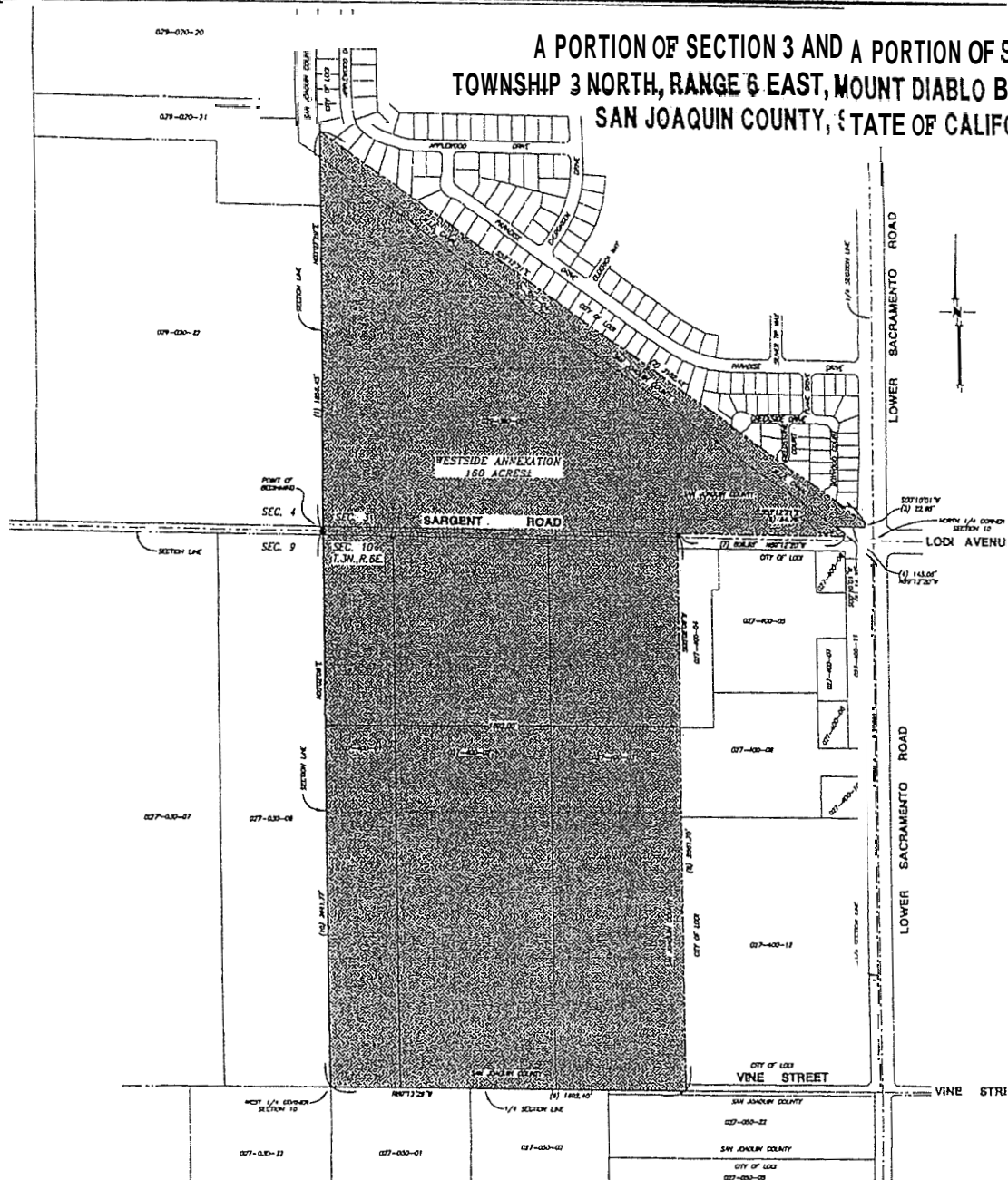
The bearing of North 89°12'20" West for the north line of the northwest quarter of said Section 10 as shown on that certain map filed for record in Book 22 of Parcel Maps, Page 124, San Joaquin County Records was used for the basis of bearings for all courses in this description.

Containing 160 acres, more or less

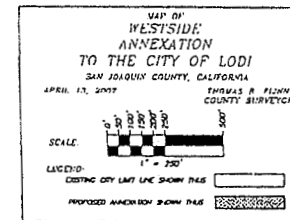
Dated: 5.21.07



A PORTION OF SECTION 3 AND A PORTION OF SECTION 10,
TOWNSHIP 3 NORTH, RANGE 6 EAST, MOUNT Diablo BASE AND MERIDIAN,
SAN JOAQUIN COUNTY, STATE OF CALIFORNIA



VICINITY
NOT TO SCALE



AS SHOWN ON THE PLAT & PLEADING
FILED IN THE OFFICE OF THE CLERK OF THE SUPERIOR COURT
OF THE COUNTY OF SAN JOAQUIN, CALIFORNIA
A BEARING OF N 11° 10' 10" E BEING THE NORTH LINE OF THE NORTHWEST QUARTER OF
SECTION 10 AS SHOWN ON THAT CERTAIN MAP FILED FOR RECORD IN BOOK 22 OF THE
MAPS FILED IN THE SAN JOAQUIN COUNTY RECORDS, AND USED FOR THE BASIS OF ALL
RECORDS THEREIN THE TRUE LINE



5 11.07

McER Engineering, Inc.
11111 E. 11TH AVE., SUITE 100
DENVER, CO 80231
TEL: 303-751-1111
FAX: 303-751-1112

| NO. | DESCRIPTION | DATE APPROVED | BY |
|-----|---------------|---------------|----|
| 1 | DESIGN REVIEW | | |
| 2 | CONSTRUCTION | | |

| | |
|------|----|
| DATE | BY |
| DATE | BY |
| DATE | BY |

MAP OF ANNEXATION NO. AX-0402
WESTSIDE ANNEXATION
TO THE CITY OF LODI

SHEET
1
OF 1 SHEET

EXHIBIT G

FORM OF ASSIGNMENT

OFFICIAL BUSINESS

Document entitled to free recording
Government Code Section 6103

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910
Attn: City Clerk

(SPACE ABOVE THIS LINE RESERVED FOR
RECORDER'S USE)

**ASSIGNMENT AND ASSUMPTION AGREEMENT
RELATIVE TO FRONTIER COMMUNITY BUILDERS WESTSIDE
DEVELOPMENT AGREEMENT**

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (hereinafter, the "Agreement") is entered into this _____ day of _____, 200_____, by and between Frontier Community Builders, a _____ corporation (hereinafter "Developer"), and _____, a _____ (hereinafter "Assignee").

RECITALS

1. On _____, 2007, the City of Lodi and Developer entered into that certain agreement entitled "Development Agreement By and Between The City of Lodi and Frontier Community Builders, Inc. related to the development known as Frontier Community Builders Westside Project (hereinafter the "Development Agreement"). Pursuant to the Development Agreement, Developer agreed to develop certain property more particularly described in the Development Agreement (hereinafter, the "Subject Property"), subject to certain conditions and obligations as set forth in the Development Agreement. The Development Agreement was recorded against the Subject Property in the Official Records of San Joaquin County on _____, 2007, as Instrument No. _____ - _____

2. Developer intends to convey a portion of the Subject Property to Assignee, commonly referred to as Parcel _____, and more particularly identified and described in Exhibit A-1 and Exhibit A-2, attached hereto and incorporated herein by this reference (hereinafter the "Assigned Parcel").

3. Developer desires to assign and Assignee desires to assume all of Developer's right, title, interest, burdens and obligations under the Development Agreement with respect to and as related to the Assigned Parcel.

ASSIGNMENT AND ASSUMPTION

NOW, THEREFORE, Developer and Assignee hereby agree as follows:

1. Developer hereby assigns, effective as of Developer's conveyance of the Assigned Parcel to Assignee, all of the rights, title, interest, burdens and obligations of Developer under the Development Agreement with respect to the Assigned Parcel. Developer retains all the rights, title, interest, burdens and obligations under the Development Agreement with respect to all other property within the Subject Property owned by Developer.

2. Assignee hereby assumes all of the rights, title, interest, burdens and obligations of Developer under the Development Agreement with respect to the Assigned Parcel, and agrees to observe and fully perform all of the duties and obligations of Developer under the Development Agreement with respect to the Assigned Parcel. The parties intend hereby that, upon the execution of this Agreement and conveyance of the Assigned Parcel to Assignee, Assignee shall become substituted for Developer as the "Developer" under the Development Agreement with respect to the Assigned Parcel.

3. All of the covenants, terms and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

4. The Notice Address described in Section 28 of the Development Agreement for the Developer with respect to the Assigned Parcel shall be:

IN WITNESS HEREOF, the parties hereto have executed this Agreement as of the day and year first above written. This Agreement may be signed in identical counterparts.

DEVELOPER:

ASSIGNEE:

_____ ,
a _____ a _____

By: _____

Print Name:

Title: Division President

By: _____

Print Name: _____

Title: _____

859464-6

Final Version 11/07/2007

EXHIBIT H
SCHEDULE OF IMPROVEMENTS

859464-6
Final Version 11/07/2007

Implementation and Phasing Memorandum

Introduction

The project phasing described below is intended to outline the anticipated sequencing of development. The project phasing plan is also intended to help ensure all necessary infrastructure would be in place and operational for connection and use as portions of the project phases come on line. The phasing schedule should be used as a guideline rather than a binding commitment because phasing must be flexible to respond to market absorption and other relevant conditions.

Phasing

The project is expected to be developed in four phases over a period of five to seven years. The first phase is expected to begin in the Spring of 2007 and the final phase is anticipated to be completed by the end of 2014.

The following schedule represents the expected phasing of the residential villages.

| <u>Phase</u> | <u>Type</u> | <u>Village</u> | <u>Units</u> |
|-------------------------|-------------|----------------|--------------|
| 1 | LDR | A | 198 |
| 2 | MDR | E | 54 |
| 2 | LDR | B | 160 |
| 3 | HDR | D | 167 |
| 4 | MDR | C | <u>140</u> |
| Total residential units | | | <u>719</u> |

Phase 1: The first phase of the project is Village A which consists of the 49.9 acre site north of Lodi Avenue to the WID Canal. Village A is a triangular site and represents approximately 198 lots. Sewer, water, storm drainage and other utilities to serve the site will be provided from the south through the utility corridor beneath Roads B C. The surface improvements to Roads B and C and the south side of Lodi Avenue are not expected to be constructed at this time.

Phase 2: It is anticipated that the second phase of the project would include construction of Roads B and C and Tokay Street to Road C. The 160 LDR lots in Village B and the ~~54~~ MDR lots in Village E would be developed in this phase for a total of 214 lots. The south side of Lodi Avenue would also be constructed along with this phase as will the two approximately acre neighborhood park.

Phase 3: The third phase is planned to be the approximately 167 townhomes represented by Village D. The completion of the Pedestrian trail from Lodi Avenue to Tokay will be in this phase.

Phase 4: The fourth and final phase is expected to include the 140 MDR lots in Village C. The pedestrian trail south of Tokay and the Basin/ Park will likewise be completed with this phase of the project.

EXHIBIT I **PARK IMPROVEMENTS**

Basin/Park Area Summary

Westside Annexation

| Location | Basin (1), acres | Park | | Total, acres |
|----------|---------------------|-------------------|-----------------|-----------------|
| | | Net (2), acres | Gross, acres | |
| A | 2.9 | 1.6 | 1.6 | 4.5 |
| B | | 2.1 | 2.1 | 2.1 |
| C | 8.2 | 5.4 | 6.1 | 14.3 |

Southwest Gateway Annexation

| Location | Basin (1), acres | Park | | Total, acres | |
|-----------------------------|---------------------|-------------------|-----------------|-----------------|-----|
| | | Net (2), acres | Gross, acres | | |
| D | 5.9 | 1.5 | 1.5 | 7.4 | (3) |
| E | 6.7 | 2.4 | 2.4 | 9.1 | (4) |
| F | 4.8 | 1.5 | 1.5 | 6.3 | |
| G | | 2.2 | 2.2 | 2.2 | |
| H | | 2 | 2 | 2 | |
| Open Space on Century Blvd. | | 0 | 0 | 0 | (5) |

- (1) Westside Annexation area basin calculations not approved.
The basin area numbers are subject to change.
- (2) Net area measured from street right of way.
Area requirements are exclusive of bike and ped routes.
- (3) Park to be located at the southwest end of designated area.
- (4) Park to be located at the south end of designated area.
- (5) Two slivers of open space are shown on Century Blvd.
Neither area provides sufficient space for park facilities.

EXHIBIT J

REQUIRED PARK AMENITIES

| | | Bike Rack | Pool | Waters Play | Tennis | Basketball | Bocce | Horseshoes | Playground | Picnic Table | Picnic Shelter (Rental) BBQ | Passive Area | Fields | Off Street Parking | Trees | Turf | Irrigation Booster Pump | Restroom | Drinking Fountain | Furniture | Light | Bike/ Ped | S |
|-------------|-------|--------------|------|----------------|--------|------------|-------|------------|------------|-----------------|--------------------------------------|-----------------|--------|--------------------------|-------|------|-------------------------------|----------|----------------------|-----------|-------|--------------|---|
| A | Basin | | | | | | | | | | | | X | | | | | | | | | | |
| | Park | X | | | | | | | X | X | X | | | | X | X | X | | X | X | X | | |
| B | Park | X | | | | X | X | X | X | X | X | | | | X | X | X | | X | X | X | X | |
| | Basin | | | X | | | | | | | | | X | | X | X | X | | | | | | |
| C | Park | X | | | | | X | X | X | X | X | | | | X | X | X | X | X | X | X | X | |
| | Basin | | | | | | | | | | | | X | | | | | | | | | | |
| D | Park | X | | | | X | | X | X | X | X | | | | X | X | X | | X | X | X | | |
| | Basin | | | | | | | | | | | X | X | | X | X | X | | | | | | |
| E | Park | X | | X | | X | X | X | X | X | X | | | | X | X | X | X | X | X | X | X | |
| | Basin | | | | | | | | | | | | X | | X | X | X | | | | | | |
| F | Park | X | | | | | | | X | X | X | | | | X | X | X | | X | X | X | | |
| G | Park | X | | | | | | | X | X | X | | | | X | X | X | | X | X | X | | |
| H | Park | X | | | | | | | X | X | X | | | | X | X | X | | X | X | X | | |
| | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | |
| * 2nd Phase | | | | | | | | | | | | | | | | | | | | | | | |

EXHIBIT K
BENEFITED PROPERTIES

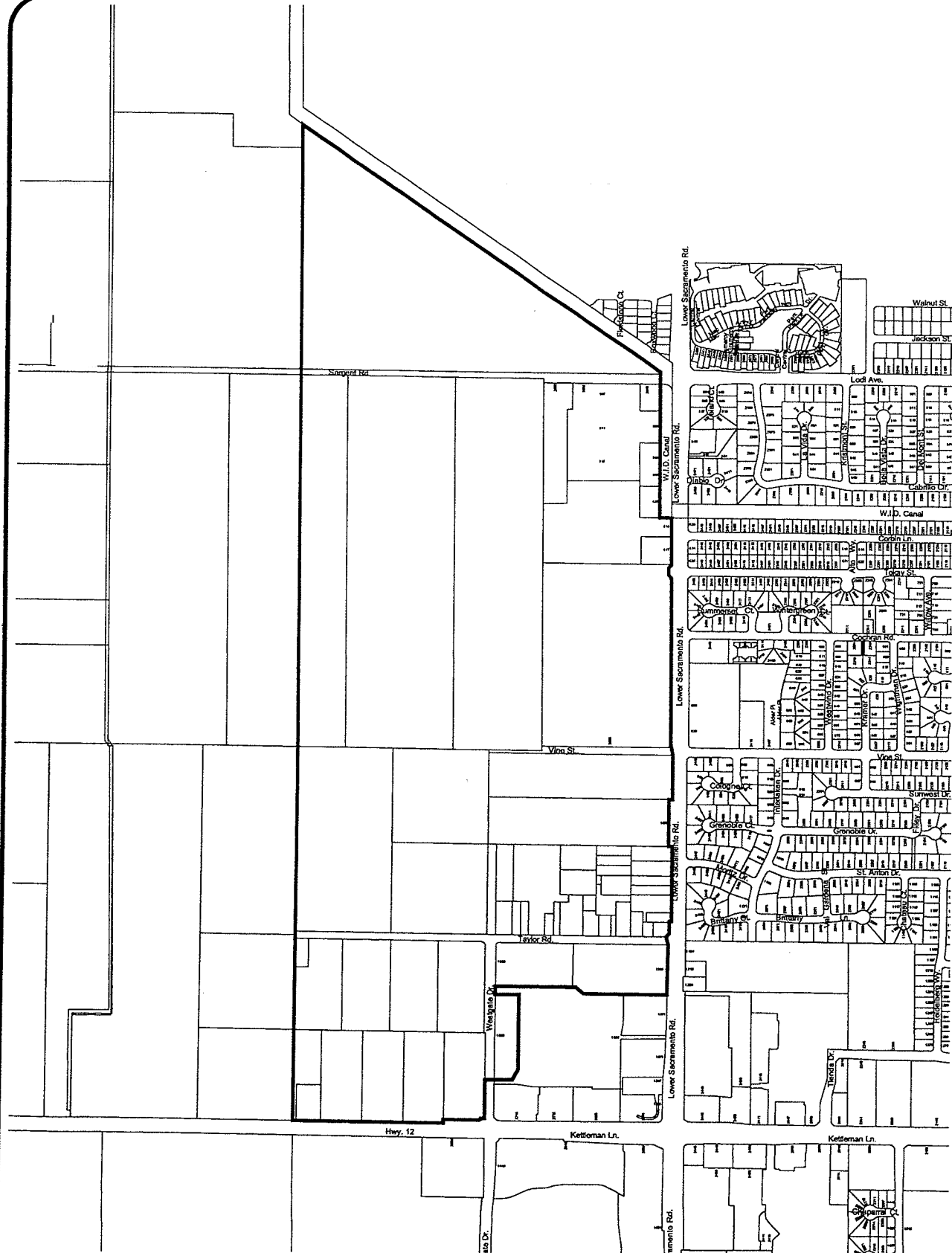


CITY OF LODI

PUBLIC WORKS DEPARTMENT

Exhibit K

Benefiting Undeveloped Properties



1" = 1000'

EXHIBIT L

AGREEMENT TO AMEND WESTSIDE DEVELOPMENT AGREEMENT

AGREEMENT TO AMEND
WESTSIDE
DEVELOPMENT AGREEMENT
AND REFRAIN FROM CHALLENGING LAND USE PROJECT

THIS AGREEMENT is made this 4th day of December, 2007 by and between the City of Lodi (~~City~~) California General Law city, represented by the City Manager and City Attorney with the limited authority as described in Section 1.A; Citizens for Open Government, an unincorporated association (Citizens); and Frontiers Community Builders (Developer) a dba of Frontier Land Companies, a California Corporation. The Parties agree as follows:

1. Recitals.

4" The Parties to the Agreement.

The City of Lodi ("City") is a General Law city governed by a five-member city council. For all purposes herein and during all times during the negotiation of this Agreement the City Manager and City Attorney have represented the City. However in this Agreement and at all times during the negotiation of the Agreement the City Manager and/or City Attorney have lacked the capacity or legal authority to bind the City of Lodi and/or the City Council. The parties understand that throughout the negotiation and in executing this Agreement the City Manager and City Attorney can only recommend to the city Council that it take certain actions. All authority and discretion remains with the City Council over whether the City Council will approve or disapprove of this Agreement. The City Council is scheduled to hear the Project at a duly noticed public hearing scheduled after February 1, 2007.

Citizens is an unincorporated association that has commented on the development proposed by Developer. The "Project" referred to herein is as defined in the Development Agreement for the "FCB Westside Project" with all Project Approvals described therein. Citizens desire to have certain mitigation measures and clarifications added to the Development Agreement negotiated between City and Developer that in the opinion of Citizens will further the interest of the City and the interest of the public. If these amendments are added to the draft Development Agreement in the form of this Agreement, which shall be an exhibit to the Development Agreements, then Citizens will support the Project, will not make negative comments about the Project's EIR or the Project at any City Council or other public hearings. and will not subsequently challenge the certification of the EIR or the Project Approvals, directly or indirectly, Ann Cerney shall be the sole spokesperson for Citizens and make these statements at the City Council hearing.

Developer, a private entity, is the applicant for the Development Agreements and Project Approvals described therein. The term "Developer" includes all related entities of Developer and their successors in interest.

6. The parties agree that the Development Agreements contain commitments for major infrastructure and amenities that will result in public benefits for the City.

C, Although Citizens are not fully satisfied with all aspects of the Project and EIR, it has balanced the benefits of the Project, including the changes to the draft Development Agreement as set forth in this Agreement, against the adverse effects of the Projects and has concluded that the Projects, separately or combined, are substantially more beneficial to the City than detrimental.

2. Modification of Development Agreement

The parties agree that the draft Development Agreement for the Project, scheduled to be considered by the City Council at the public hearing after January 1, 2007 is to be hereby amended by and through this Agreement, which shall be attached to the Development Agreement as Exhibit "___".

A. Mitigation For Agricultural Conversion Impacts of Project

(1) Developers shall obtain permanent easements to be held by the City or other qualified entity (e.g., Central Valley Farmland Trust) limiting the use of San Joaquin County real property to agricultural uses and related activities as are permitted from time to time under the agricultural zoning laws of the County ("Agricultural Conservation Easements"). In providing mitigation for impacts to agricultural land, Developer shall adhere to the terms of the final adopted San Joaquin County Agricultural Mitigation Ordinance, now under consideration by the San Joaquin County Board of Supervisors. (See November 14, 2006 draft Ordinance.)

(2) At a minimum, and notwithstanding the terms of the final, adopted County Ordinance, the Agricultural Conservation Easements shall be recorded on a 1:1 acre (conserved:developed) ratio against an aggregate total of up to 152 acres, more or less, contained within FCB Westside Project, involving one or more parcels of land - though not necessarily contiguous - with each mitigation acre located within San Joaquin County and zoned for agricultural uses ("Protected Properties"). If mitigation lands are located in the Primary Zone of the San Joaquin Delta that lies within the County, the mitigation ratio shall be on a 2:1 acre (conserved:developed) basis. However, if prior to the Developer's compliance with this agricultural mitigation requirement, the San Joaquin Board of Supervisors excludes land within certain areas of the County (e.g., the Primary Zone of the Delta) from being used for agricultural mitigation purposes, the parties agree that those lands would be excluded from being used for mitigation purposes under this Agreement.

(3) At a minimum, and notwithstanding the terms of the final, adopted County Ordinance, the Agricultural Conservation Easements may only apply to Protected Properties that are not encumbered by (a) any other perpetual open space conservation easement or

deed restriction or (b) any other perpetual agriculture mitigation easement or deed restriction. The cost of obtaining the Agricultural Conservation Easements shall rest with the Developer. The Protected Properties must be subject to permanent restrictions on use to ensure the availability of agricultural production capacity by limiting non-agricultural development that is inconsistent with agriculture uses and related activities. In accordance with the County's November 14, 2006, draft Mitigation Ordinance section 9-1080.3, subdivision (e)(1), the [Developer shall pay an administrative fee to cover the costs of administering, monitoring and enforcing the farmland conservation easement in an amount to be determined by the qualified entity that will hold the conservation easement if the City holds the Agricultural Conservation Easements, the City will monitor the Protected Properties subject to the easements biannually through its Planning Commission to ensure compliance with the requirements] of this provision. If the City is selected to hold the Agricultural Conservation Easements, Developer will pay City \$5,000 to compensate the City for monitoring cost/contingencies in connection with the Agricultural Conservation Easements for the Westside Project

(4) The Agricultural Conservation Easements shall be recorded in the applicable ratio(s) against a minimum of each acre to be developed (or more) within any phased Final Subdivision Map of the Project prior to the date the first residential building permit is issued to Developer for any such phase thereof.

(5) City shall notify Citizens of which site(s) are selected to meet the requirements of this provision 30 days prior to the recordation of any Agricultural Conservation Easements pursuant to this Agreement. If both Citizens and the City agree, the mitigation ratio applicable to mitigation lands outside of the Delta Primary Zone may be reduced if the Developer proposes to obtain conservation easements that, in the judgment of both Citizens and the City, have a greater mitigation value than lands that could otherwise be used as mitigation for agricultural impacts of the Projects under this provision.

B. Home Building, Energy and Conservation Features within the Project

1) Developer shall become a California Green Builder prior to the construction of the homes within the Projects. The California Green Builder program requires that all homes are at least 15% more energy efficient than currently mandated by Title 24 in California and meet guidelines for energy efficiency set by the US Environmental Protection Agency. The homes within the Projects may contain a variety of energy efficient features and alternative energy features such as high efficient insulation, high performance windows, high efficient heating and cooling equipment, cool roofing, radiant barriers, awnings, overhangs, day lighting and qualified lighting.

2) Developer's status as a California Green Builder requires Developer to implement water conservation features that save 20,000 gallons per home per year. Developer shall provide front yard landscaping using weather based Irrigation controllers and drip irrigation and may utilize other water conservation features such as high efficiency fixtures and efficient plumbing technologies, products and materials. Developer also agrees to use weather based Irrigation controllers in front yards, parks and common areas.

3) Developer shall make available solar power features and electrical car charging stations or outlets that homeowners within the Projects may elect to purchase as part of that homeowner's option package.

4) Developer agrees that at least 50% of the construction site waste shall be recycled or otherwise diverted from landfill disposal.

5) Developer shall use only EPA approved natural gas fireplaces, fireplace inserts, woodstoves or pellet stoves when such fireplaces are installed. Developer will comply with all federal, state and local laws and regulations pertaining to the installation of wood burning fireplaces.

6) Developer will encourage landscape maintenance companies to use electric-powered equipment.

7) Shade trees will be planted where appropriate throughout the Project and located to shade paved areas and to protect dwellings from energy consuming environmental conditions.

8) Developer agrees to comply with the California Green Builder program that applies to high density residential units. Currently a pilot program exists that is substantially similar to the low density program, with the exception of the 20,000 gallon per home per year in water conservation.

C. New Urbanism neighborhood design.

Developer believes that the Project's current land use plans promote the principles of New Urbanism that include neighborhoods that are walk-able, interconnected, that include pedestrian friendly streetscapes; bicycle friendly design elements: well integrated, highly visible, and publicly accessible open spaces. Developer is also committed to designing the specific components of the Projects to include housing and structural forms that are visually interesting, well modulated, constructed of high quality materials, proportionate to their surroundings, and a range of housing types, sizes and affordability.

D. Pedestrian Transit and Bicycle Infrastructure: Developer agrees to implement the following measures:

1) Provide pedestrian enhancing infrastructure that includes: sidewalks and pedestrian paths, direct pedestrian connections, street trees to shade sidewalks, pedestrian safety designs/infrastructure, street lighting and/or pedestrian signalization and signage, and

2) Provide bicycle-enhancing infrastructure that includes: bikeways/paths connecting to a bikeway system as well as secure bike parking.

E. Lodi Eastside: The Project's requirement for investment in Lodi's eastside community as set forth in the FCB Westside Development Agreement is hereby amended to require that any units which are selected by the Developer to be rehabilitated or replaced and which are currently at affordable rents for persons or families of low income shall remain affordable for persons of low income.

F. Water Supply: Additional entitlements for urban development within the Project area (i.e., subdivision maps, parcel maps, building permits, etc.) shall not be granted for any dwellings within the Project area after total water use exceeds the projected safe groundwater yield of the Project area until additional water sources (e.g., W.I.D. groundwater recharge or water treatment or otherwise) are available. According to the Westside-Southwest Gateway Project Water Supply Assessment (July 2006) ("WSA"), a total of approximately 257 acre feet per year will be available for the Westside Project upon its annexation while the total projected water demand will likely be in excess of that amount before full build-out occurs. The purpose of this provision, then, is to ensure that water use by the Project does not exceed the projected increase in safe groundwater yield attributable to annexation of the Project area into the City until additional water sources (e.g., W.I.D. groundwater recharge or water treatment or otherwise) are available, (See WSA, Figure 5-4.)

G. Agricultural Conflicts: Developer shall strive to phase development in a manner that will reduce land use conflicts with lands currently in agricultural use to the west of the Project. To the extent feasible, Developer will generally develop the Project in an east to west direction.

H. Challenges:

1) No Challenge by Citizens/Cerney: This Agreement will not become effective in the event that Citizens and/or Ann Cerney: (1) file any legal action challenging the City's certification of the EIR; (2) file any legal action challenging the City's approval of the Project's land use approvals, including the amendments to the West Side Facilities Master Plan; (3) file any legal action challenging the San Joaquin Local Agency Formation Commission's compliance with CEQA; (4) file any legal action challenging the San Joaquin Local Agency Formation Commission's approval of the annexation of the territory to the City of Lodi; (5) qualify a referendum petition to require an election concerning one or more of the Project's legislative approvals, or (6) violate the terms or the spirit of this Agreement in any other manner.

2) Challenge by Third Party:

a. The amendment to the Development Agreement called for in this Agreement will become partially ineffective as set forth below in the event that any other party (1) files any legal action challenging the City's certification of the EIR; (2) files any legal action challenging the City's approval of the Project's land use approvals; (3) files any legal action challenging the San Joaquin Local Agency Formation Commission's compliance with CEQA; (4) files a legal action challenging the San Joaquin Local Agency Formation Commission's approval of the annexation of the territory to the City of Lodi; or, (5) qualifies a

referendum petition to require an election concerning one or more of the Project's legislative approvals.

b. If an event triggers a partial invalidity as called for above, the ratio of number of acres to be mitigated per Section 2.A. will be reduced by 50% and reimbursement of a portion of the fees paid to Citizens under the Southwest Gateway Development Agreement dated November 15, 2006 (see Paragraph 3C. therein) shall be due from Citizens to Developer (within 60 days of its written notice to Citizens) in the amount of \$7,600.. Moreover, Citizens' statute of limitations to file an action challenging the City's certification of the EIR and/or land use approvals will be tolled for thirty (30) days from the limitations period established by CEQA. City and Developer grant a second conditional and limited tolling of the statute of limitations to file an action challenging City's certification of the EIR. This condition and limited tolling will only arise upon a legal challenge by a third party to LAFCO's determination on the EIR and/or annexation and Citizens' time to file an action shall extend for only thirty (30) days after the third party files its action.

c. In the event that dismissals with prejudice are filed with any applicable Court before answers are filed in the third party litigation then Citizens will dismiss any subsequent actions and the terms of this Agreement shall be fully restored.

3. Miscellaneous.

A. Ann Cerney, as the sole representative of Citizens, shall appear at all appropriate City Council hearings and express support for the approval of this Agreement, and non-opposition to the City Council's approval of the Project and certification of the EIR.

B. Citizens' represents and warrants that Ann Cerney has authority to execute this Agreement on behalf of Citizens and is authorized to appear on behalf of the organization at all Los Angeles City Council and other public meetings.

C. Developer has previously agreed to conditionally pay \$40,000 to Citizens as reimbursement to Citizens for attorney fees expended in the negotiation and executing of an amendment to the Southwest Gateway Development Agreement along the same lines as set forth above; therefore, the parties further agree that Developer owes no additional amounts to reimburse members of the Citizens for any time and effort expended in the process of amending the Westside Development Agreement,

D. If the public benefits included in this Agreement are not adopted by the City Council, Citizens' support for approval of this Agreement and non-opposition to the City Council's approval of the Project and certification of the EIR will be withdrawn and its previously stated objections will be renewed. City and Developer agree not to assert an exhaustion of administrative remedies defense as to those issues specifically raised and exhausted at hearings regarding the Project if litigation ensues and this agreement becomes null and void, or partially invalid, under this Agreement

4. Independent Effect. Effective Date of Agreement.

This Agreement shall be immediately effective and binding upon Citizens and Developer, but subject to termination by condition subsequent should the Lodi City Council not ratify this Agreement at the time of its public hearing on the FCB Westlake Project scheduled after February 1, 2007. The remainder of this Agreement shall only become effective upon the City Council approval of the amendment to the draft Development Agreement that are described in Section 2, Notwithstanding any other provision herein to the contrary, because of the nature of the mitigation measures set forth herein (e.g., ratio of 1:1 acres for agriculture mitigation), the parties agree that this Agreement shall be effective as stand-alone resolutions of their disputes as to this Project.

5. Agreement Not to Sue or Circulate a Referendum Petition.

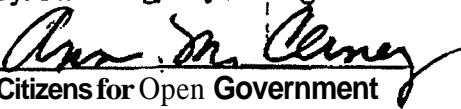
if the amendment to the Development Agreement called for in this Agreement are adopted by the City Council. Citizens agrees that neither it nor its individual members shall sue the City or the San Joaquin Local Agency Formation Commission over the sufficiency of the EIR or the land use/annexation decisions by these public agencies. further neither Citizens nor its members shall encourage or give assistance to any others to challenge the Developer's Project either administratively or judicially. Moreover, neither Citizens, nor its members, will encourage, indirectly assist or actually circulate a petition to place a referendum on the ballot to force an election about the Project's legislative approvals.

6. Counterparts.

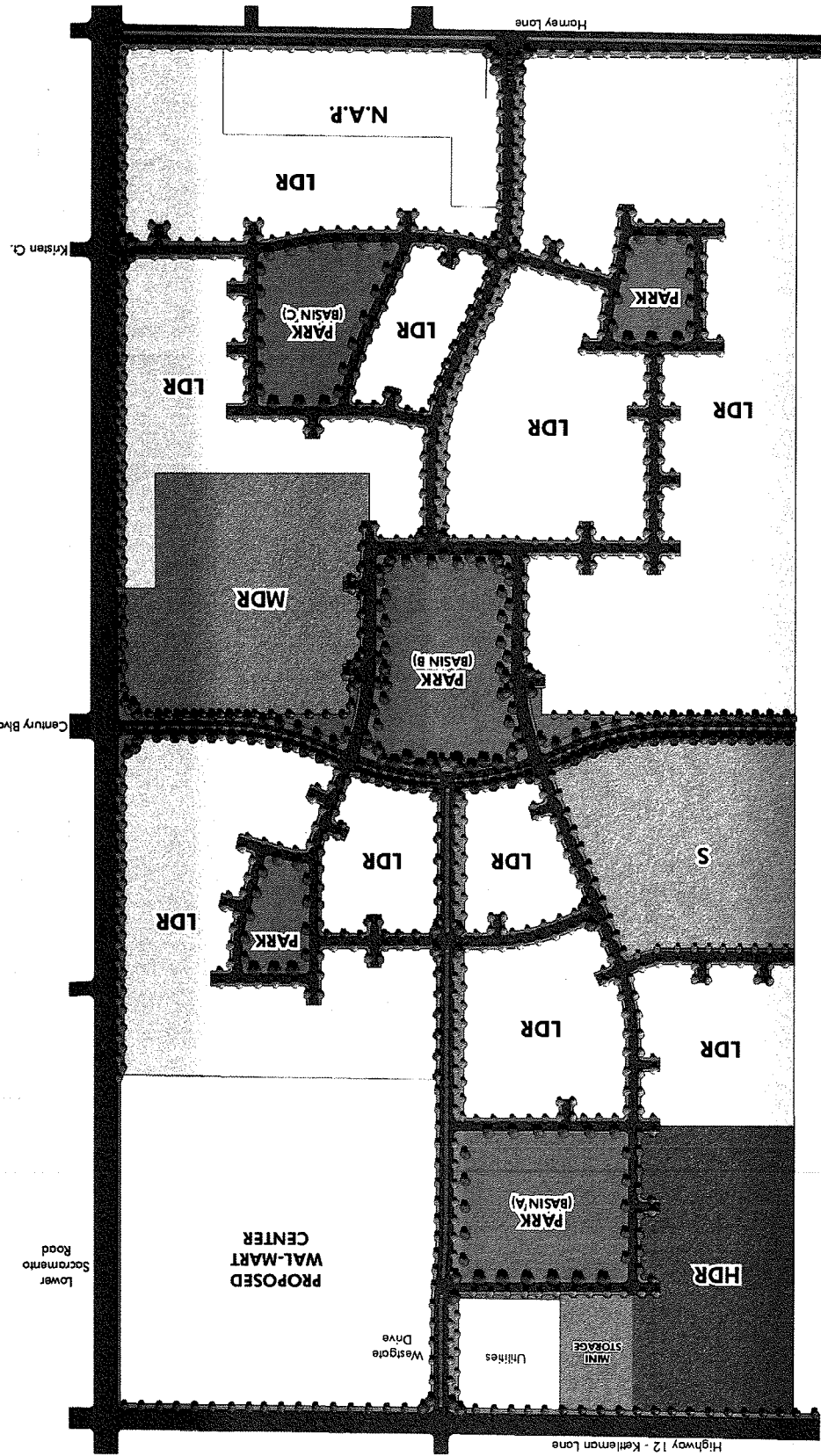
This agreement may be executed in counterparts.


Frontier Land Companies
By: Tom Doucette, President


City of Lodi
By: Blair King, City Manager


Citizens for Open Government
By: Ann Cerney

LODI GATEWAY: Illustrative Land Use Plan



SW Gateway Land Use Plan

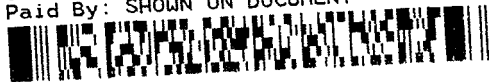
OFFICIAL BUSINESS
Document entitled to free recording
Government Code Section 6103

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

Attn: City Clerk

Doc #: 2008-116965
Thu Jul 17 13:27:09 PDT 2008
Page: 1 of 71 Fee: \$0
Gary W. Freeman
San Joaquin County Recorders
Paid By: SHOWN ON DOCUMENT



(SPACE ABOVE THIS LINE RESERVED FOR
RECORDER'S USE)

DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF LODI
AND FRONTIER COMMUNITY BUILDERS, INC.
FOR FCB SOUTHWEST GATEWAY PROJECT

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DEVELOPMENT AGREEMENT FCB SOUTHWEST GATEWAY PROJECT

This Development Agreement is entered into as of this 6th day of December, 2006, by and between the CITY OF LODI, a municipal corporation {"City"}, and, FRONTIER COMMUNITY BUILDERS, INC. ("Landowner"). City and Landowner are hereinafter collectively referred to as the "Parties" and singularly as "Party."

RECITALS

1. **Authorization.** To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Government Code Section 65864, et seq. (the "Development Agreement Statute"), which authorizes the City and any person having a legal or equitable interest in the real property to enter into a development agreement, establishing certain development rights in the Property which is the subject of the development project application.

2. **Property.** Landowner holds a legal or equitable interest in certain real property located in the City of Lodi, County of San Joaquin, more particularly described in Exhibit A-1 attached hereto (the "Property"). Landowner represents that all persons holding legal or equitable interests in the Property shall be bound by this Agreement.

3. **Project.** Landowner has obtained various approvals from the City (described in more detail in Recital 6 below) for a mixed use project known as **FCB** Southwest Gateway (the "Project") to be located on the Property.

4. **Public Hearing.** On October 25, 2006, the Planning Commission of the City of Lodi, acting pursuant to Government Code Section 65867, held a hearing to consider this Agreement and the Planning Commission action has been reported to the City Council.

5. **Environmental Review.** On November 15, 2006, the City Council certified as adequate and complete, the Lodi Annexation Environmental Impact Report ("EIR") for the Southwest Gateway Project. Mitigation measures were required in the EIR and are incorporated into the Project and into the terms and conditions of this Agreement, as reflected by the findings adopted by the City Council concurrently with this Agreement.

6. **Project Approvals.** The following land use approvals (together the "Project Approvals") have been granted for the Property, which entitlements are the subject of this Agreement:

6.1. The EIR. The Mitigation Measures in the EIR are incorporated into the Project and into the terms and conditions of this Agreement (City Resolution No. 2006-209);

6.2. A General Plan Amendment (the "General Plan"), (attached hereto as Exhibit B) approved by the City on November 15, 2006 (City Resolution No. 2006-211);

6.3. The Zoning of the Property (attached hereto as Exhibit B-1) approved by the City on December 6, 2006 (City Ordinance No. 1787);

6.4. The Large Lot Tentative Subdivision Map for the Project (attached hereto as Exhibit C-1) to be subsequently considered by the City through a noticed public hearing process. (The parties agree that the large lot subdivision map included herein is for illustrative purposes only and shall not be effective until approved through a notice public hearing process by the City. If approved by the City, the Large Lot Subdivision Map shall thereafter be included within the Project Approvals listed herein);

6.5. Reserved;

6.6. The Development Plan and Infrastructure Plan for the Project (attached hereto as Exhibit D), approved by the City on December 6, 2006 by Ordinance No. 1788;

6.7. The Growth Management Allocations, as required by Chapter 15.34 of the Lodi Municipal Code, as set forth in Exhibit E, approved by the City on December 6, 2006 by Ordinance No. 1788;

6.8. This Development Agreement, as adopted on December 6, 2006 by City Ordinance No. 1788 (the "Adopting Ordinance"); and,

6.9. The Annexation Approvals granted by San Joaquin County Local Agency Formation Commission as shown in Exhibit F attached hereto.

7. **Need for Services and Facilities.** Development of the Property will result in a need for municipal services and facilities, some of which will be provided by the City to such development subject to the performance of Landowner's obligations hereunder. With respect to water, pursuant to Government Code Section 65867.5, any tentative map approved for the Property will comply with **the** provisions of Government Code 66473.7.

8. **Contribution to Costs of Facilities and Services.** Landowner agrees to contribute to the costs of such public facilities and services as required herein to mitigate impacts on the community of the development of the Property, and City agrees to provide such public facilities and services as required herein to assure that Landowner may proceed with and complete development of the Property in accordance with the terms of this Agreement. City and Landowner recognize and agree that, but for Landowner's contributions set forth herein including contributions to mitigate the impacts arising as a result of development entitlements granted pursuant to this Agreement, City would not and could not approve the development of the Property as provided by this Agreement and that, but for City's covenant to provide certain

facilities and services for development of the Property, Landowner would not and could not commit to provide the mitigation as provided by this Agreement. City's vesting of the right to develop the Property **as** provided herein is in reliance upon and in consideration of Landowner's agreement to make contributions toward the cost of public improvements as herein provided to mitigate the impacts of development of the Property as development occurs.

9. **Development Agreement Resolution Compliance.** City and Landowner have taken all actions mandated by, and fulfilled all requirements set forth in, the Development Agreement Resolution of the City of Lodi, as set forth in the City Council Resolution No. 2005-237 for the consideration and approval of the pre-annexation and development agreement.

10. **Consistency with General and Specific Plan.** Having duly examined and considered this Agreement and having held properly noticed public hearings hereon, the City found that this Agreement satisfies the Government Code §65867.5 requirement of general plan consistency.

NOW, THEREFORE, in consideration of the mutual promises, conditions and covenants hereinafter set forth, the Parties agree as follows:

AGREEMENT

1. **Incorporation of Recitals.** The Preamble, the Recitals and all defined terms set forth in both are hereby incorporated into this Agreement as if set forth herein in full.

2. **Description of Property.** The property, which is the subject of this Development Agreement, is described in **Exhibit A-1** and depicted in **Exhibit A-2** attached hereto ("Property").

3. **Interest of Landowner.** The Landowner has a legal or equitable interest in the Property. Landowner represents that all persons holding legal or equitable interests in the Property shall be bound by the Agreement.

4. **Relationship of City and Landowner.** It is understood that *this* Agreement is a contract that has been negotiated and voluntarily entered into **by City** and Landowner and that Landowner is not an agent of City. The City and Landowner hereby renounce the existence of any form of joint venture or partnership between them, and agree that nothing contained herein or in any document executed in connection herewith **shall be construed as making the City and Landowner joint venturers or partners.**

5. **Effective Date and Term.**

5.1. **Effective Date.** The effective date of this Agreement ("Effective Date") is December 6, 2006, which is the effective date of City Ordinance No. 1788 adopting this Agreement.

5.2. Term. Upon execution, the term of this Agreement shall commence on the Effective Date and extend for a period of fifteen (15) years, unless said term is terminated, modified or extended by circumstances set forth in this Agreement. Following the expiration of the term, this Agreement shall be deemed terminated and of no further force and effect. Said termination of the Agreement shall not affect any right or duty created by City approvals for the Property adopted prior to, concurrently with, or subsequent to the approval of this Agreement nor the obligations of Sections 20, 24 or 25 of this Agreement. In the event that litigation is filed **by** a third party (defined to exclude City and Landowners or any assignees of Landowner) which seeks to invalidate this Agreement or the Project Approvals, the expiration date of this Agreement shall **be extended for** a period equal to the length of time from the time the summons and complaint and/or petition are served on the defendant(s) until the judgment entered by the court is final and not subject to appeal; provided, however, that the total amount of time for which the expiration date shall be extended as a result of such litigation shall not exceed four years.

5.3. Automatic Termination Upon Completion and Sale of Residential Lot. This Agreement shall automatically be terminated, without any further action by either party or need to record any additional document, with respect to any single-family residential lot within a parcel designated **by** the Project Approvals for residential use, upon completion of construction and issuance **by** the City of a final occupancy permit for a dwelling unit upon such residential lot and conveyance of such improved residential lot by Landowner to a bona-fide good-faith purchaser thereof. In connection with its issuance of a final inspection for such improved lot, City shall confirm that all improvements, which are required to serve the lot, **as** determined by City, have been accepted by City. Termination of this Agreement for any such residential lot as provided for in this Section shall not in any way be construed to terminate or modify any assessment district or Mello-Roos Community Facilities District lien affecting such **lot** at the time of termination.

6. Use of Property.

6.1. Vested Right to Develop. Landowner shall have the vested right to develop the Project in accordance with the terms and conditions of this Agreement, the Project Approvals, the City's existing policies, standards and ordinances (except as expressly modified **by** this Section 6.1 and Section 8.3) and any amendments to any of them as shall, from time to time, **be** approved pursuant to this Agreement. Landowner's vested right to develop the **Property shall be subject** to subsequent approvals; provided however, except as provided in Section 6.3, that any conditions, terms, restrictions and requirements **for** such subsequent **approvals shall not prevent** development of the Property for the **uses, or reduce** the density and intensity of development, or limit **the** rate or timing of development set forth in this Agreement, so long as Landowner is not in default under this Agreement. Notwithstanding the **vested** rights granted herein, Landowner agrees that the following obligations, which are presently being developed, shall apply to development of the Property:

- 6.1.1 Payment of a development fee for a proportionate share of the design and construction cost of the Highway 99 interchange project at Harney Lane.
- 6.1.2 Payment of Agricultural Land Mitigation fee, as identified in Mitigation Measure LU-2, pursuant to the ordinance and/or resolution to be adopted by the City of Lodi.
- 6.1.3 Payment of Electric Capital improvement Mitigation fee (see Section 6.4.10) pursuant to the ordinance and/or resolution to be adopted by the City of Lodi.
- 6.1.4 Payment of development fee for proportionate share of the costs of designing and constructing a water treatment system and/or percolation system for treatment of water acquired from Woodbridge Irrigation District (see Section 6.4.4) pursuant to the ordinance and/or resolution to be adopted by the City of Lodi.

With regards to the fees identified in Sections 6.1.1, 6.1.2, 6.1.3, and 6.1.4 and these fees only, Landowner hereby consents to their imposition as conditions of approval on any discretionary or ministerial land use entitlement subsequently granted by the City including but not limited to issuance of building permits. City agrees that the fees payable by the Landowner pursuant to Sections 6.1.1, 6.1.2, 6.1.3 and 6.1.4 **shall be** adopted in conformance with applicable law, and shall apply uniformly to all new development on properties within the City that are zoned consistent with the Project Approvals, or apply uniformly to all new development on properties that are similarly situated, whether by geographic location or other distinguishing circumstances. Except *for* the fees identified in **this** Agreement including but not limited to the Project Approvals, Sections 6.1.1, 6.1.2, 6.1.3, 6.1.4 and 8.3, no other subsequently enacted development or capital fee shall **be** imposed as **a** condition of approval on any discretionary or ministerial decision. The Parties acknowledge and agree that the fees applicable to the development pursuant to the Project Approvals and this Agreement may **be** increased during the term of this Agreement provided that (1) such increases are limited to annual indexing (i.e. per the Engineering News Record index, or the CPI, or other index utilized by the City) and as provided in current fee ordinances and (2) the increased fees are adopted in conformance with applicable law, apply uniformly to all new development on properties within the **City** that are zoned consistent with the Project Approvals, or apply uniformly to all new development on properties that are similarly situated, whether by geographic location or other distinguishing circumstances. The initial adjustment shall be effective as of four years after the Effective Date of the Agreement and shall be calculated based on the difference in the applicable index from the numerical rate at the **end of** the month following the third year after the Effective Date **and** the numerical rate at the **end of the** month following **the fourth year after the Effective Date**, All subsequent increases shall be based on the annual change in the applicable index. Notwithstanding the preceding sentence, index adjustments to the fees **set forth** in Section 8.2, subsections 2, 3 and 4 shall be effective annually as set forth in the relevant ordinances and resolutions. Moreover, Landowner will be subject to the indexing called for above even if Landowner has **filed** a complete application for a Vesting Tentative Map and will not vest against such indexing until payment of the fees as called for in this Agreement.

6.2. Permitted Uses. The permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, provisions for reservation or dedication of land for public purposes, location and maintenance of on-site and off-site *improvements*, location of public utilities and other terms and conditions of development applicable to the Property, shall be those set forth in this Agreement, the Project Approvals and any amendments to this Agreement or the *Project Approvals*. **City** acknowledges that the Project Approvals provide for the land uses **and** approximate acreages for the Property as set forth in Exhibit 5-1 and Exhibit B-2.

6.3. Moratorium, Quotas, Restrictions or Other Growth Limitations.

Landowner and City intend that, except as otherwise expressly provided in this Agreement, this Agreement shall vest the Project Approvals against subsequent City resolutions, ordinances and initiatives approved by the City Council or the electorate that directly or indirectly limit the rate, timing, or sequencing of development, or prevent or conflict with the permitted uses, density and intensity of uses or the right to receive public services **as set forth in** the Project Approvals; provided however Landowner shall be subject to rules, regulations or policies adopted **as** a result of changes in federal or state law (as provided in Section 7.3) which are or have been adopted on a uniformly applied, City-wide or area-wide basis, in which case City shall treat Landowner in a uniform, equitable and proportionate manner with all properties, public and private, which are impacted by the changes in federal or state law.

6.3.1 Allocations Under City Growth Mananement Program

a. Allocations Required Prior to Map Approval

Consistent with the City's Growth Management Program, which shall apply to the Project, except as otherwise provided herein, no tentative map for any portion of the Property shall **be** issued *until* such time **as** Landowner has obtained allocations for each residential unit within the area covered **by** such map, consistent with the Growth Management Ordinance (Ordinance 1521), codified as Section 15.34 of the City of Lodi Municipal Code.

b. Schedule of Allocation of Residential Units

The following schedule of residential unit allocations shall apply to the Project.

(i) Initial Allocation:

As of the *Effective Date of this Agreement*, the following number of residential units shall be initially allocated to the Project from the **City's reserve of unused allocations ("Initial Allocation"):**

300 Low Density units

300 High Density units (300 units shall be used to construct 300 apartment units adjacent to Highway 12/Kettleman Lane as shown in the Project Approvals)

Except for the requirement set forth in Section 6.3.1(a) above the Initial Allocation has been determined to be exempt from and in compliance with the provisions of the Growth Management Ordinance and Resolutions 91-170 and 91-171 (timing and point system requirements).

(ii) Subsequent Annual Allocations:

As of the Effective Date of this Agreement, Landowner shall be entitled to apply for future annual allocations in three-year increments, and on a rolling basis. Provided that Landowner otherwise complies *with* the City's Growth Management Program, Landowner shall be entitled to annual allocations set forth in Exhibit E ("Annual Allocations"). If Landowner elects in any year to request fewer allocations than provided for in Exhibit E or if the term of any allocation granted expires before it is used as part of obtaining a subdivision map, Landowner shall be entitled to receive, upon submission of a complete growth management allocation application, additional allocations after the eighth year of this Agreement and through the term of this Agreement including any extension thereto granted pursuant to Section 5.2. The total number of growth management allocations granted hereunder shall be limited to the number of residential units approved as part of the Project Approvals excluding any senior housing residential units. The use of such allocations shall be restricted to the year for which such allocations were made, consistent with the Growth Management Ordinance. Notwithstanding the foregoing, Landowner may request additional allocations, over and above those set forth in Exhibit "E", and City may grant such allocations in its discretion, provided such additional allocations are consistent with the City's Growth Management Allocation Program, Resolutions 91-170 and 91-171, *subject to* such additional community benefits and/or exactions negotiated upon such a request.

Landowner is not required to apply for such allocations on an annual basis. Landowner may instead comply with **all** development plan **and** related requirements under the Growth Management Ordinance and Resolutions 91-170 and 91-171 every third year, at which time Landowner may apply for allocations *for the* next three-year period. After the expiration of the year for which an Annual Allocation was issued to Landowner, Landowner may submit a request *and be issued by* the City another Annual Allocation, such that Landowner may maintain, on a rolling basis, a number of allocations equal to three Annual Allocations. Except for allowing the Landowner this *flexibility in terms of* the number of years for which Landowner may apply, **all** requests for Annual Allocations must otherwise **comply** with the Growth Management Ordinance **and** Resolutions 91-170 and 91-171.

The requirement that Landowner apply for Annual Allocations does not alter the vested rights of the Project, specifically as to the General Plan and zoning designation of the Project.

(c) Growth Management Ordinance in full force and effect:

Except where otherwise specifically stated herein, nothing in this section 6.3.1 is intended to modify in any way the City's Growth Management Program, including its exemptions under Section 15.34.040 (e.g., for senior citizen housing).

Section 6.3.2 Future Growth Control Ordinances/Policies, Etc.

(a) One of the specific purposes of this Agreement is to assure Developer that, during the term of this Agreement no growth-management ordinance, measure, policy, regulation or development moratorium of City adopted by the City Council or by vote of the electorate after the Effective Date of this Agreement will apply to the Property in such a manner so as to the reduce the density of development , modify the permissible uses, or modify the phasing of the development as set forth in the Project Approvals.

(b) Therefore, the parties hereto agree that, except as otherwise expressly **provided** in the Project Approvals, Sections 6.1, 6.3.1 or 6.4 or other provision of this Agreement which expressly authorize City to make such pertinent changes, no ordinance, policy, rule, regulation, decision or any other City action, or any initiative or referendum voted on by the public, which would be applicable to the Project and which would affect in any way the rate of development, construction and build out of the Project, or limit the Project's ability to receive any other City service shall be applicable to any portion of the Project during the term of this Agreement, whether such action is by ordinance, enactment, resolution, approval, policy, rule, regulation, decision or other action of City or by public initiative or referendum.

(c) City, through the exercise of either its police power or its taking power, whether by direct City action or initiative or referendum, shall not establish, enact or impose any additional conditions, dedications, fees or other exactions, policies, standards, laws or regulations, which directly relate to the development of the Project except as provided in Sections 6.1, 6.3.1, or 6.4 herein or other provision of *this* Agreement **which** expressly allows City to make such changes. Nothing herein prohibits the Project from being subject to a (i) City-wide bond issue, (ii) City-Wide special or general tax, or (iii) special assessment for the construction or maintenance of a City-wide facility as may be voted on by the electorate or otherwise enacted; provided *that* such tax, assessment or measure is City-wide in nature, does not discriminate against the land within the Project and does not distinguish between developed and undeveloped parcels.

(d) This Agreement shall not be construed to limit the authority of City to charge processing fees for land use approvals, public facilities fees **and** building permits **as** they relate to plumbing, mechanical, electric or fire code permits, or other similar permits and entitlements which are in force and effect on a city-wide basis at the time those permits are applied for, except to the extent any such processing regulations would be inconsistent with this Agreement.

(e) Notwithstanding subdivision (b), the City may condition or deny a permit, approval, extension, or entitlement if it determines any of the following:

(1) A failure to do so would place the residents of the Project or the immediate community, or both, in a condition dangerous to their health or safety, or both.

(2) The condition or denial is required in order to comply with state or federal law (see Section 7.3).

6.4. Additional Conditions.

6.4.1. Timing of Dedications and Improvements of Parks other than DeBenedetti Park Landowner agrees to dedicate park land and complete construction of all the park improvements within the Southwest Gateway area as described and set forth in the Project Approvals at its sole cost and expense. The lists of the parks and park improvements Contemplated herein are set forth in Exhibit "I" and "J". Landowner and City agree that the provision of land and the construction of all park facilities and installation of equipment within the Project boundaries will satisfy Landowner's Quimby Act obligations for the Southwest Gateway project as set forth in Lodi Municipal Code. Therefore, Landowner shall not be obligated to pay any additional park fees, other than the payments required pursuant to Section 6.4.8, and Landowner shall not be entitled to any credit for the value of the improvements constructed or equipment installed. The phasing of such improvements shall be in compliance with the Phasing Schedule included in Exhibit I.

With regards to the park improvements listed in Exhibit J, prior to approval by the City of the first tentative subdivision map, Landowner shall prepare plans and specifications for all park improvements included in the Southwest Gateway Project Approvals and submit those plans and specifications to the City for review and approval which approval will not be unreasonably withheld provided that the plans and specifications contain all park improvements *listed* in Exhibit J and satisfy **all** applicable conditions of approval included in the Project Approvals. The Landowner shall construct the parks in compliance with the approved plans and specifications. The City will inspect improvements during construction. If improvements are of poor quality and/or do not meet the requirements of approved plans and specifications, the City will notify the Landowner in writing and *the* Landowner, at its sole cost, shall correct any errors or deficiencies. **The** Landowner shall construct the parks to the satisfaction of the City, which shall **be defined as compliance with the approved plans and specifications.**

6.4.2 Payment of Utility Exit Fees The Lodi Electric Utility ~~is~~ a city-owned and operated utility that provides electrical utility services *for* residential, commercial and industrial customers in Lodi. **As** the proposed project sites would be annexed to the City of Lodi, *the* Lodi Electric Utility would provide electrical utility services to the project site. To the extent that Landowner is assessed "exit fees," also known as "Cost Responsibility Surcharges," by Pacific Gas & Electric for **its** departing **load**, Landowner **shall pay** said fees when they are

due. Landowner may, at its option and at its own cost, request a Cost Responsibility Surcharge Exemption from the California Energy Commission for any qualified departing load pursuant to Title 20, California Code of Regulations, Section 1395, et. seq. Forms for the exemption are available on-line at http://www.energy.ca.gov/exit_fees/documents/2004-02-18_PGE_EXEMP_APPL.PDF City makes no representation that Landowner is eligible for exemptions pursuant to these regulations. Landowner agrees to save, defend, indemnify and hold harmless City from any and all costs, judgments or awards owed to Pacific Gas & Electric arising out of or related to City's provision of electrical utility services to the project site.

6.4.3 Maintenance of Specified Public Improvements

Landowner agrees to provide or pay for all park, median strip, and other landscaping maintenance and repairs for two years for lands dedicated by the Landowner to the City and accepted by the City. In the event that Landowner chooses to pay the City for the costs of maintenance and repair, the City shall provide an estimate of the annual costs and the Landowner shall pay the full amount within thirty calendar days after the City by U.S. Mail or email, transmits the estimate to the Landowner. If the amount paid to the City exceeds the actual amount incurred by the City plus reasonable staff costs to administer the contract, the City shall, within a reasonable period of time, refund the difference to the Landowner.

6.4.4 Water Treatment and/or Percolation Cost Landowner shall pay a fee based on the proportionate share of the costs of designing and constructing a water treatment system and/or percolation system for treatment of water acquired by the City from the Woodbridge Irrigation District. Landowner shall pay the fee as required under the fee program to be developed by the City, but in no event later than when water service connection for each residential, office and commercial unit is provided.

6.4.5 Utility Line Extension City is preparing a policy pursuant to which property developed will pay the actual costs of capital improvements necessary to extend utility services to a development. Landowner acknowledges that such an extension is necessary to implement the Project Approvals on the Property. Landowner agrees to pay the City, pursuant to the policy to be adopted by the City, the costs of the capital improvements necessary to extend utility services to the Property.

6.4.6 Payment for Park and Recreation Department Equipment

In addition to construction of any park and public works improvements required pursuant to the Project Approvals and this Agreement, Landowner shall pay One Hundred Thousand U.S. dollars (\$100,000) to the City for use to acquire equipment for the Lodi Parks and Recreation and Public Works Departments. The amount payable hereunder shall be paid based upon the following schedule of payments:

Payment Due Date

Payment Amount

1. Payment of \$100,000 for acquisition of parks equipment/
Lawnmower upon the effective date of this Agreement.

**6.4.7 Improvements to be Designed and Constructed by
Landowner Within or Adjacent to the Project Boundaries**

The Project Approvals require the installation of specified public and private improvements. Landowner shall, as specified in the Project Approvals, either design, engineer and construct the following improvements ~~or~~ pay *the City the* appropriate fee for the design, engineering and construction of said improvements. The obligations imposed on the Landowner herein shall be in addition to any other obligations set forth in this Agreement

In the event that any of Developer's improvements encroach upon any city facilities, property or rights of way, developer shall indemnify City against any and all expenses, including legal fees, incurred by the City to secure replacement facilities, property or rights of way.

6.4.7.1 Surface Water Facilities

Transmission Main (Proportionate share of the total design, engineering and construction costs)
Storage Tank (Proportionate share of the total design, engineering and construction costs)

6.4.7.2 Water Supply Facilities

One new water well to cover proposed development within the Southwest Gateway area. The **well will** be installed in the Southwest Gateway area at the location identified in the Project Approvals or approved *by the City Engineer*. The **well shall be installed** and operational on or before January 1, 2010 or earlier if otherwise required by the Water Master Plan.

6.4.7.3 Water Distribution Facilities

All water pipes and related infrastructure in *all* streets.
Any interim or temporary facilities as determined necessary by **the** Public Works Director.

6.4.7.4 Sewer Collection Facilities

All sewer pipes **and** related infrastructure in **all** streets.
Any interim or temporary facilities **as determined necessary by the** Public Works Director.

6.4.7.5 Recycled Water Facilities

All recycled water pipes and related infrastructure for irrigations systems located in or on streets, public and private school sites (to property boundary line only), places of assembly

including but not limited to religious facilities (to property boundary line only), and high density residential sites.

Provide up to a maximum of \$50,000 to partially fund the City of Lodi Recycled Water Master Plan Study.

6.4.7.6 Storm Drainage Facilities

All stormwater pipes and related infrastructure *in* all streets and basins.

All stormwater detention **basins**, control structures, pumping facilities and appurtenant piping and controls.

Any interim or temporary facilities as determined necessary by the Public *Works Director*.

Developer will be entitled to apply for reimbursement under Lodi Municipal Code Chapter 16.40 for benefit received by undeveloped properties as a result of the *construction* of the improvements required by this paragraph. Without limiting in any manner, the City Council's future exercise of its legislative discretion in the public hearing called for by Chapter 16.40, the parties anticipate that the benefited properties *will* be those set *forth* in *Exhibit J*. The parties also expressly acknowledge the final determination of benefited properties shall be determined pursuant to process set forth in Chapter 16.40.

6.4.7.7 Streets and Roads

(i) Design and construct all streets within the Project Boundary as set forth in the Project Approvals.

(ii) Dedicate land necessary for and design and install improvements including curb, gutter, sidewalk and landscaping *on* the **west side** of Lower Sacramento Road between Lodi Shopping Center and Harney Lane. The land dedicated and the improvements installed shall be consistent with Lodi standards and the Project Approvals.

(iii) Dedicate land adjacent **to** the Project frontage which is necessary for expansion of Harney Lane between Legacy Estates Unit No. 1 and the western City sphere of influence boundary as established in the General Plan and as necessary to comply with the City standards and Project Approvals. In addition, in the event that City, in compliance with applicable laws, takes action to form an assessment district to pay the costs of design and construction of Harney Lane as described herein, Landowner agrees to cast all votes within the control *of Landowner* **in** favor of formation of the assessment district and to not protest the formation of the assessment district. In the event, that City elects not to create an assessment district or there are not sufficient votes cast in favor *of* the assessment **district** to allow **its** formation, Landowner **shall, at its sole cost**, design and construct the improvements to Harney Lane adjacent to the Property necessary to meet City standards and to comply with the Project Approvals.

(iv) Payment of fees *assessed for* recent *underground utility* improvements related to Lower Sacramento Road pursuant to Lodi Resolution **No.** 2007-52, dated March 21, 2007. The fee amount payable as of the Effective Date is \$596,004.00. The amount payable shall be increased consistent with the *index* provision of Lodi *Municipal Code* 15.64.080. The amount due is based on the proportionate share *of* demand for the improvements arising from the

Project Approvals. The fee shall be paid no later than acceptance of the first tentative subdivision map for processing.

(v) Dedication of necessary land, design and installation of transition roadway lane adjacent to the Property along Highway 12/Kettleman Lane.

(vi) Payment of Fair Share Costs for traffic mitigation measures that are not projects within the Streets & Roads Fee Program.

6.4.7.8 Sewer Trunk Facilities

Realignment to location approved by City and reconstruction of Domestic Trunk and Industrial Trunk Lines that presently cross the Property.

Pursuant to Lodi Resolution No. 2004-29, pay existing reimbursement obligations which presently total \$300,206.43 related to the Hamey Lane Sewer Lift Station and Trunk Line. The amount payable shall be paid upon submission of the first tentative subdivision map which covers in part any portion of parcels 058-040-01, 058-040-02, 058-040-04, 058-040-05 or 058-040-14.

6.4.8 DeBenedetti Park Construction

Within six years of the Effective Date of this Agreement, Landowner shall pay the City Eight Million U.S. dollars (\$8,000,000) for the design, engineering and construction of DeBenedetti Park as set forth in the Improvement Plans for DeBenedetti Park, Phase I and Phase 2, December 2004 plan. Landowner may satisfy part or all of this obligation through the provision of services necessary to design and construct DeBenedetti Park provided that (1) Landowner requests and obtains advance written approval from the City for any design or construction services provided which said approval shall include an agreed upon value of said services, and (2) Landowner complies with all applicable laws including **but** not limited to laws requiring payment of prevailing wages for any construction services or actions.

Landowner acknowledges that City will enter into contracts to design and construct DeBenedetti Park. As consideration for **City's** agreement to authorize satisfaction of this *obligation*, Landowner agrees to the following payment schedule:

1. Not later than three (3) years after the approval of this Agreement **by the City Council**, Landowner *shall pay the City two million U.S. Dollars (\$2,000,000)*. **In the event, that any party other than the City or Landowner file a litigation challenging the approval by the City of the Project Approvals, the payment specified herein shall be due not later than four (4) years after the approval of this Agreement by the City Council.** Landowner's failure to pay the amount required herein **shall** be considered a material default of this Agreement.
2. Not later than five years after the approval of this Agreement by the City Council, Landowner shall pay the City an *additional three million U.S. Dollars (\$3,000,000)*.

Landowner's failure to pay the amount required herein shall be considered a material default of this Agreement.

3. No later than six years after the approval of this Agreement by the City Council, Landowner shall either (1) pay the City an additional three million U.S. Dollars (\$3,000,000) or (2) provide a letter of credit payable to the City or other form of security acceptable to the City in an amount equal to \$3,000,000. The letter of credit or other form of security shall be subject to review and approval as to form **by** the City Attorney. Landowner further acknowledges that the City may choose to obtain financing for the design and construction costs of DeBenedetti Park and Landowner agrees that the letter of credit or other form of security provided for herein shall **be** required to be in a form that is necessary to assist the City in obtaining financing **at** competitive market interest rates. City agrees that Landowner may substitute a letter of credit, in a form reasonably acceptable to the City Attorney, for a lesser amount upon satisfaction of a portion of the total obligation set forth herein. Upon delivery of such replacement letter of credit and its approval as to form by the City Attorney, the City will release and convey to Landowner the prior letter of credit. City further agrees that the other form of security may be in the form of a promissory note and deed of trust secured by a portion of the Property which has a value equal to a minimum of \$3,000,000. The *outstanding* principal balance set forth in the Promissory Note shall not accrue interest. Notwithstanding anything to the contrary set forth herein, the entire outstanding payment obligation required pursuant to this section shall be payable in full upon the sale or other Transfer of the Property encumbered by the Deed of Trust ("Restricted Property") or (ii) the occurrence of an Event of Default as specified in the Promissory Note or Deed of Trust.

The Deed of Trust shall **be** recorded against the Restricted Property subordinate only to such liens **as** City may approve in writing. The City will not unreasonably withhold consent to subordinate the Promissory Note and Deed of Trust to construction financing for the Project provided that the principal amount of such construction financing does not exceed seventy-five percent (75%) of the appraised fair market value of the Project and the Restricted Property, and provided further that the senior lender agrees to provide reasonably adequate protections to City, including reasonable notice and cure rights in the event of default, and an agreement **that** if, prior to foreclosure **of** the senior *loan*, **the** City takes title to the Restricted Property and cures the default, the lender will not exercise **any** right it may **have to accelerate** the *loan by reason of* the transfer of title to the **City**.

The parties further agree that the if final \$3,000,000 payment required herein has not been paid by or before the end of the eighth year after approval of this Agreement by the City Council, the City may require payment pursuant to the terms of the letter of credit or other form of security provided **and** may foreclose *on* the deed of trust **and** promissory note.

6.5 Annexation

The ability to proceed *with* development of the Property pursuant to the Project Approvals shall be contingent upon the annexation of the Property into the City. Pending such annexation, Landowner may, at its **own** risk, process tentative parcel maps and tentative subdivision maps and improvement or construction plans and City may conditionally approve such tentative maps and/or improvement plans in accordance *with* the Entitlements, provided City shall not approve any final parcel map or final subdivision map for recordation nor approve the issuance of any grading permit for grading any portion of the Property or building permit for any structure within the Property prior to the annexation of the Property to the City.

City shall use its best efforts and due diligence to initiate such annexation process, obtain the necessary approvals and consummate the annexation of the Property into the City, including entering into any annexation agreement that may be required in relation thereto, subject to the City's review and approval of the terms thereof. Landowner shall be responsible for the costs reasonably and directly incurred by the City to initiate, process and consummate such annexation, the payment of which shall be due in advance, based on the City's estimate of such cost, and thereafter as and when the City provides an invoice(s) for additional costs incurred by City therefore in excess of such estimate.

7. Applicable Rules, Reaulations, Fees and Official Policies.

7.1. Rules Regarding Permitted Uses Except as provided in this Agreement, the City's ordinances, resolutions, rules, regulations and official policies governing the permitted uses of the Property, the density and intensity of use, the rate timing and sequencing of development, the maximum *height* and size of proposed buildings, and provisions for reservation and dedication of land shall be those in force on the Effective Date of this Agreement. Except as provided in Section 8.2, this Agreement does not vest Landowner's rights to pay development impact fees, exactions and dedications, processing fees, inspection fees, plan checking fees or charges.

7.2. Rules Regarding Design and Construction. The Project has been designed as a Planned Development pursuant to Chapter 17.33 of the Lodi Municipal Code. Design, improvements and construction standards shall be as set forth in Project Approvals including the Development Plan, and shall be vested for the term of this Agreement. Unless otherwise provided within the Development Plan or expressly **provided** in this Agreement, **all** other ordinances, resolutions, rules, regulations and official policies governing design, improvement and construction standards and specifications **applicable** to the Project **and** to public improvements to be constructed by the Landowner **shall be** those in force and **effect** at the time the applicable permit approval **is** granted.

7.3. Changes in State or Federal law. This Agreement shall not preclude *the* application to development of the **Property** of changes in City laws, regulations, plans or policies, the terms of which are specifically mandated and required by changes in State or

Federal laws or regulations. These changes may include any increase in an existing fee or imposition of a new fee that are necessary for the City or Landowner to comply with changes in State or Federal laws or regulations, including but not limited to sewer, water and stormwater *laws or regulations*.

7.4. Uniform Codes Applicable. Unless otherwise expressly provided in this Agreement, the Project shall be constructed in accordance with the provisions of the Uniform Building, Mechanical, Plumbing, Electrical and Fire **Codes**, City standard construction specifications, and Title 24 of the California Code of Regulations, relating to Building Standards, in effect at the time of approval of the appropriate building, grading, encroachment or other construction permits for the Project. If no permits are required for infrastructure improvements, such improvements will be constructed in accordance with the provisions of the Uniform Building, Mechanical, Plumbing, Electrical and Fire Codes, City standard construction specifications, and Title 24 of the California Code of Regulations, relating to Building Standards, in effect at the start of construction of such infrastructure.

8. Existing Fees, Newly Enacted Fees, Dedications, Assessments and Taxes.

8.1. Processing Fees and Charges. Landowner shall pay those processing, inspection, and **plan** check fees and charges required by City under then current regulations for processing applications and requests for permits, approvals and other actions, and monitoring compliance *with* any permits issued or approvals granted or the performance of any conditions with respect thereto or any performance required of Landowner hereunder.

8.2. Existing Fees, Exactions and Dedications. Landowner shall be obligated to provide all dedications and exactions **and** pay **all types of fees** as required for the types of development authorized by the Project Approvals as of the Effective Date of this Agreement. With regards any fees applicable to residential development, the Parties **agree** that the **fees** shall be payable at the earliest time authorized pursuant to the Government Code Section 66007 as it exists as of the Effective Date of this Agreement. The specific categories of fees **payable** are listed below. The dedication and exaction obligations and fee amounts **payable** shall be those obligations and fee amounts applicable (indexed as set forth hereinbelow) **as** of the date that the Landowner's application for the applicable vesting tentative map is deemed complete. For any development for which the Landowner has not submitted a vesting tentative map, the dedication and exaction *obligations* and fee amounts payable shall **be** those obligations and fee amounts applicable (indexed **as** set forth hereinbelow) as of the date **the final** discretionary approval for **that** development is **granted by the City**.

Standard **City** Development Impact **Fees** Payable by the Landowner include:

1. Development Impact Fees (Lodi Municipal Code Chapter 15.64)
2. *San Joaquin County Regional* Transportation Impact Fee (Lodi Municipal Code Chapter 15.65)
3. County Facilities **Fee** (Lodi Municipal **Code** Chapter 15.66)

4. San Joaquin County Multi-Species Habitat Conservation and Open Space Development Fee (Lodi Municipal Code Chapter 15.68)

Any existing fees may be increased during the term of this Agreement provided that such increases are limited to annual indexing (i.e. per the Engineering News Record Index, or the CPI, or other index utilized by the City) and as provided in current fee ordinances. The initial adjustment shall be effective as of four years after the Effective Date of the Agreement and shall be calculated based on the difference in the applicable index from the numerical rate at the end of the month following the third year after the Effective Date and the numerical rate at the end of the month following the fourth year after the Effective Date. All subsequent increases shall be based on the annual change in the applicable index. Notwithstanding the preceding sentence, index adjustments to the fees set forth in subsections 2, 3 and 4 of this section shall be effective annually as set forth in the relevant ordinances and resolutions. Moreover, Landowner will be subject to the indexing called for above even if Landowner has filed a complete application for a Vesting Tentative Map and will not vest against such indexing until payment of the fees as called for in this Agreement.

8.3. New Development Impact Fees, Exactions and Dedications.

Landowner agrees to pay the development fees identified in Section 6.1, including specifically subsections 6.1.1 through 6.1.4, of this Agreement. With regards any fees applicable to residential development, the Parties agree that the fees shall be payable at the earliest time authorized pursuant to the Government Code Section 66007 as it exists as of the Effective Date of this Agreement.

Except as expressly provided herein, Landowner shall not be obligated to pay or provide any development impact fees, connection or mitigation fees, or exactions adopted by City after the Effective Date of this Agreement. Notwithstanding this limitation, Landowner may at its sole discretion elect to pay or provide any fee or exaction adopted after the Effective Date of this Agreement.

8.4. Fee Reductions To the extent that any fees payable pursuant to the requirements of Sections 8.1 are reduced after the operative date for determining the fee has occurred, the Landowner shall pay the reduced fee amount.

9. Community Facilities District. Formation of a Community Facilities District for Public Improvements and Services.

9.1. Inclusion in a Community Facilities District. Landowner agrees to cooperate in the formation of a Community Facilities District pursuant to Government Code Section 53311 et seq. to be formed by the City. The boundaries of the area of Community Facilities District shall be contiguous with the boundaries of the Property excluding the portion of land zoned for commercial or office development. Landowner agrees not to protest said district formation and agrees to vote in favor of levying a special tax on the Property in an amount not to exceed \$600 per year per single family attached or detached residential dwelling units and

\$175 per year for each attached multi-family rental unit as adjusted herein. The special tax shall be initiated for all residential dwelling units for which a building permit is issued, and shall commence to be levied beginning the subsequent fiscal year after the building permit is issued. Landowner acknowledges that the 2007-2008 special tax rate for the units in the, Project ~~will~~ not exceed \$600 per single-family attached or detached dwelling unit and \$175 per year for each attached multi-family rental unit and that the special tax shall increase each year by 2% in perpetuity. A vote by Landowner against the levying of the special tax or a vote to repeal or amend the special tax shall constitute *an event of default under this Agreement*.

9.2. Use of Community Facilities District Revenues Landowner and City agree that the improvements and services that may be provided with the special tax levied pursuant to Section 9.1 may be **used** for the following improvements and services:

- a. Police protection and criminal justice services;
- b. Fire protection, suppression, paramedic and ambulance services;
- c. Recreation and library program services;
- d. Operation and maintenance of museums and cultural facilities;
- e. Maintenance of park, parkways and open space areas dedicated to the City;
- f. Flood and storm protection services;
- g. Improvement, rehabilitation or maintenance of any real or personal property that has been contaminated by hazardous substances;
- h. Purchase, construction, expansion, improvement, or rehabilitation of any real or tangible property with useful life of more than five years; and,
- i. Design, engineering, acquisition or construction of public facilities with a useful life of more than five years including:
 1. Local park, recreation, parkway and open-space facilities,
 2. Libraries,
 3. Childcare facilities,
 4. Water transmission and distribution facilities, natural gas, telephone, energy and cable television lines, **and**
 5. Government facilities.

Landowner and City agree that Property does not presently receive any of these services from the City and that all of these services are new services.

9.3. Community Facilities District for Residential Property - Financing.

In addition to the funding provided as part of the Community Facilities District identified in Section 9.1, **City** acknowledges that Landowner **may desire** to finance the acquisition or construction of a portion of the improvements described in Section 8.2 through the Community Facilities District. The costs associated with the items identified in Section 8.2 shall **be** in addition to the annual cost imposed to comply with Section 9.1. The following provisions shall apply to any to the extent that the Landowner desires to **fund** any of the improvements set forth in Section 8.2 through the Community Facilities District:

- 9.3.1** **Issuance of Bonds.** City and Landowner agree that, with *the* consent of Landowner, and to the extent permitted by law, City and Landowner shall use their best efforts to cause bonds to be issued in amounts sufficient to achieve the purposes of this Section.
- 9.3.2** **Payment Prior to Issuance of Bonds.** Nothing in this Agreement shall be construed to preclude the payment by an owner of any of the parcels *to* be included within the **CFD** of a cash amount equivalent to its proportionate share of costs for the improvements identified in Section 8.2, or any portion thereof, prior to the issuance of bonds.
- 9.3.3** **Private Financing.** Nothing in this Agreement shall be construed to limit Landowner's option to install the improvements through the use *of* private financing.
- 9.3.4** **Acquisition and Payment.** City agrees that it shall use its best efforts to allow and facilitate monthly acquisition of completed improvements or completed portions thereof, and monthly payment of appropriate amounts for such improvements to the person or entity constructing improvements or portions thereof, provided City shall only be obligated to use CFD bond or **tax** proceeds for such acquisitions.

10. Processing of Subsequent Development Applications and Building Permits

Subject to Landowner's compliance with the City's application requirements including, specifically, submission of required information and payment of appropriate fees, and assuming Landowner is not in default under the terms and conditions *of this Agreement*, the *City shall* process Landowner's subsequent development applications and building permit requests in an expeditious manner. In addition, City agrees that upon payment *of* any required City fees or costs, City will designate or retain, as necessary, appropriate personnel and consultants to process Landowner's development applications and building permit requests **City** approvals in an expeditious manner.

11. Reserved

11. Amendment or Cancellation.

11.1. Modification Because of Conflict with State or Federal Laws. In the event that State or Federal **laws** or regulations enacted after the Effective Date of this Agreement prevent or preclude compliance with one or more provisions **of** this Agreement or

require changes in plans, maps or permits approved by the City, the parties shall meet and confer in good faith in a reasonable attempt to modify this Agreement to comply with such federal or State law or regulation. Any such amendment or suspension of the Agreement shall be approved by the City Council in accordance with the Municipal Code and this Agreement.

11.2. Amendment by Mutual Consent. This Agreement may be amended in writing from time to time by mutual consent of the parties hereto and in accordance with the procedures of State law and the Municipal Code.

11.3. Insubstantial Amendments. Notwithstanding the provisions of the preceding Section 12.2, any amendments to this Agreement which do not relate to (a) *the* term of the Agreement as provided in Section 5.2; (b) the permitted uses of the Property as provided in Sections 6.2 and 7.1; (c) provisions for reservation or dedication of land; (d) the location and maintenance of on-site and off-site improvements; (e) the density or intensity of use of the Project; (f) the maximum height or size of proposed buildings or (g) monetary contributions by Landowner as provided in this Agreement shall not, except to the extent otherwise required by law, require notice or public hearing before either the Planning Commission or the City Council before the parties may execute an amendment hereto.

11.4. Amendment of Project Approvals. Any amendment of Project Approvals relating to: (a) the permitted use of the Property; (b) provision for reservation or dedication of land; (c) *the* density or intensity of use of the Project; (d) the maximum height or size of proposed buildings; (e) monetary contributions by the Landowner; (f) the location and maintenance of on-site and off-site improvements; or (g) any other issue or subject not identified as an "insubstantial amendment" in Section 12.3 of this Agreement, shall require an amendment of this Agreement. Such amendment shall be limited to those provisions of this Agreement, which are implicated by the amendment of the Project Approval. Any other amendment of the Project Approval(s) shall not require amendment of this Agreement unless the amendment of the Project Approval(s) relates specifically to some provision of this Agreement.

11.5. Cancellation by Mutual Consent. Except as otherwise permitted herein, this Agreement may be canceled in whole or in part only by the mutual consent of the parties or their successors in interest, in accordance with the provisions of the Municipal Code. Any fees paid pursuant to this Agreement prior to the date of cancellation shall be retained by City.

12. Term of Project Approvals. Pursuant to California Government Code Section 66452.6(a), the term of any parcel map or tentative subdivision map shall automatically be extended for the term of this Agreement.

13. Annual Review.

13.1. Review Date. The annual review date for this Agreement shall occur either within the same month each year as the month in which the Agreement is executed or the month immediately thereafter.

13.2. Initiation of Review. The City's Planning Director shall initiate the annual review by giving to Landowner written notice that the City intends to undertake such review. Within thirty (30) days of City's notice, Landowner shall provide evidence to the Planning Director to demonstrate good faith compliance with the Development Agreement. The burden of proof, by substantial evidence of compliance, is upon the Landowner. The City's failure to timely initiate the annual review is not deemed to be a waiver of the right to do so at a later date; accordingly, Landowner is *not* deemed to be in compliance with the Agreement by virtue of such failure to *timely* initiate review.

13.3. Staff Reports. City shall **deposit** in the mail to Landowner a copy of all staff reports, and related Exhibits, concerning contract performance at least three (3) days prior to any annual review.

13.4. Costs. Costs reasonably incurred by the City in connection with the annual review shall be paid by Landowner in accordance with the City's schedule of fees and billing rates in effect at the time of review.

13.5. Non-compliance with Agreement; Hearing. If the Planning Director determines, *on* the basis of substantial evidence, that Landowner has not complied in good faith with the terms and conditions of the Agreement during the period under review, the City Council, upon receipt of any report or recommendation from the Planning Commission, may initiate proceedings to modify or terminate the Agreement, at which time an administrative hearing shall be conducted, in accordance with the procedures of State law. As part of that final determination, the City Council may impose conditions that it considers necessary and appropriate to protect the interest of the City.

13.6. Appeal of Determination. The decision of the City Council as to Landowner's compliance shall be final, and any Court action or proceeding to attack, review, set aside, void or annul any decision of the determination by the Council shall be commenced within thirty (30) days of the final decision by the City Council.

74. Default. Subject to any applicable extension of time, failure by any party to substantially perform any term or provision of this Agreement required to be performed by such party shall constitute a material event of default ("Event of Default"). For purposes of this Agreement, a party claiming another party is in default shall be referred to as the "Complaining Party," and the party alleged to be in default shall be referred to as the "Party in Default." A Complaining Party shall not exercise any of its remedies as the result of such Event of Default unless such Complaining Party first gives notice to the Party in Default as provided in Section 15.1.1, and the Party in Default fails to cure such Event of Default within the applicable cure period.

14.1. Procedure Regarding Defaults.

14.1.1. Notice. The Complaining Party shall give written notice of default to the Party in Default, specifying the default complained of by the Complaining Party. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.

14.1.2. Cure. The Party in Default shall diligently endeavor to cure, correct or remedy the matter complained of, provided such cure, correction or remedy shall be completed within the applicable time period set forth herein after receipt of written notice (or such additional time as may be deemed by the Complaining Party to be reasonably necessary to correct the matter).

14.1.3. Failure to Assert. Any failures or delays by a Complaining Party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by a Complaining Party in asserting any of its rights and remedies shall not deprive the Complaining Party of its right to institute and maintain any actions or proceedings, which it may deem necessary to protect, assert, or enforce any such rights or remedies.

14.1.4. Notice of Default. If an Event of Default occurs prior to exercising any remedies, the Complaining Party shall give the Party in Default written notice of such default. If the default is reasonably capable of being cured within thirty (30) days, the Party in Default shall have such period to effect a cure prior to exercise of remedies by the Complaining Party. If the nature of the alleged default is such that it cannot, practicably be cured within such thirty (30) day period, the cure shall be deemed to have occurred within such thirty (30) day period if: (a) the cure shall be commenced at the earliest practicable date following receipt of the notice; (b) the cure is diligently prosecuted to completion at all times thereafter; (c) at the earliest practicable date (in no event later than thirty (30) days after the curing party's receipt of the notice), the curing party provides written notice to the other party that the cure cannot practicably be completed within such thirty (30) day period; and (d) the cure is completed at the earliest practicable date. In no event shall Complaining Party be precluded from exercising remedies if a default is not cured within ninety (90) days after the first notice of default is given.

14.1.5. Legal Proceedings. Subject to the foregoing, if the Party in Default fails to cure a default in accordance with the foregoing, the Complaining Party, at its option, may institute legal proceedings pursuant to this Agreement or, in the event of a material default, terminate this Agreement. Upon the occurrence of an Event of Default, the parties may pursue all other remedies at law or in equity, which are not otherwise provided for or prohibited by this Agreement, or in the City's regulations if any governing development agreements, expressly including the remedy of specific performance of this Agreement.

14.1.6. Effect of Termination. If this Agreement is terminated following any Event of Default of Landowner or for any other reason, such termination shall not affect the validity of any building or improvement within the Property which is completed as of the date of termination, provided that such building or improvement has been constructed pursuant to a building permit issued by the City. Furthermore, no termination of this Agreement shall prevent Landowner from completing and occupying any building or other improvement authorized pursuant to a valid building permit previously issued by the City that **is** under construction at the time of termination, provided that any such building or improvement is completed in accordance with said building permit in effect at the time of such termination.

15. Estoppel Certificate. Either Party may, at any time, and from time to time, request written notice from the other Party requesting such Party to certify in writing that, (a) this Agreement is in full force and effect and a binding obligation of the Parties; (b) this Agreement has not been amended *or* modified either orally or in writing, or if so amended, identifying the amendments; and (c) to the knowledge of the certifying Party the requesting Party is not in default *in* the performance of its obligations under this Agreement, or if in default, to describe therein the nature and amount of any such defaults. A Party receiving a request hereunder shall execute and return such certificate within thirty (30) days following the receipt thereof, or such longer period as may reasonably be agreed to **by** the Parties. City Manager of City shall be authorized to execute any certificate requested by Landowner. Should the party receiving the request not execute and return such certificate within the applicable period, this shall not be deemed to be a default.

16. Mortgagee Protection: Certain Rights of Cure.

16.1. Mortgagee Protection. This Agreement shall be superior and senior to any lien placed upon the Property, or any portion thereof after the **date** of recording this Agreement, including the lien for any deed of trust or mortgage ("Mortgage"). Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all the terms and conditions contained in this Agreement shall be binding upon and effective against any person or entity, including any deed of trust beneficiary or mortgagee ("Mortgagee") who acquires title to the Property, or any portion thereof, **by** foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

16.2. Mortgagee Not Obligated. Notwithstanding the provisions of Section 17.1 above, no Mortgagee shall have any obligation or duty under **this** Agreement, before or after foreclosure or a **deed in lieu of** foreclosure, **to** construct ~~or~~ complete the construction **of** improvements, or to guarantee such construction of improvements, ~~or~~ to guarantee such construction or completion, ~~or~~ to pay, perform or provide any fee, dedication, improvements or other exaction or imposition; provided, however, that a Mortgagee shall not be entitled to devote the Property to any uses or to construct any improvements thereon, authorized **by** the Project Approvals or by this Agreement, unless Mortgagee agrees to and does construct or complete the construction of improvements, or guarantees such construction of improvements, or **pays**,

performs or provides any fee, dedication, improvements or other exaction or imposition as required by the Project *Approvals*.

16.3. Notice of Default to Mortgagee and Extension of Right to Cure. if City receives notice from a Mortgagee requesting a copy of any notice of default given Landowner hereunder and specifying the address for service thereof, then City shall deliver to such Mortgagee, concurrently with service thereon to Landowner, any notice given to Landowner with respect to any claim by City that Landowner has committed an Event of Default. Each Mortgagee shall have the right during the same period available to Landowner to cure or remedy, or to commence to cure or remedy, the Event of Default claimed set forth in the City's notice. City, through its City Manager, may extend the cure period provided in Section 15.1.2 for *not* more than an additional sixty (60) days upon request of Landowner or a Mortgagee.

17. Severability. Except as set forth herein, *if* any term, covenant or condition of this Agreement or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such *term*, covenant or condition to persons, entities or circumstances other than those as to which it **is** held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Agreement shall **be valid and be** enforced to the fullest extent permitted by law; provided, however, if any provision of this Agreement is determined to be invalid or unenforceable and the effect thereof is to deprive a Party hereto of an essential benefit *of* its bargain hereunder, then such Party so deprived shall have the option to terminate this entire Agreement from and after such determination.

18. Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

19. Attorneys' Fees and Costs in Legal Actions By Parties to the Agreement. Should any legal action be brought by either party for breach of this Agreement or to enforce any provisions herein, the prevailing party to such action shall be entitled to reasonable attorneys' fees, court costs, and such other costs as may **be** fixed by the Court.

20. Attorneys' Fees and Costs in Legal Actions By Third Parties to the Agreement and Continued Permit Processing. If any person or entity not a party to this Agreement initiates an action at law or in equity to challenge the validity of any provision of this **Agreement** *or* the Project Approvals, the parties shall cooperate and appear in defending such action. Landowner shall bear **its own costs** of defense as **a real party in interest in any such action**. Landowner shall **reimburse** City on an equal **basis for all reasonable** court costs and attorneys' fees expended by City in defense of any such action or other proceeding and shall pay any attorneys fees and costs that may be awarded to the third party or parties. The City agrees *that* in the event an action at law or in equity to challenge the validity of the Project Approvals is filed by a third party other than by a state or federal agency, the City will continue **to** process and approve permit **applications** that are *consistent with* **and** comply with the Project

Approvals unless a court enjoins further processing of permit applications and issuance of permits.

21. Transfers and Assignments. From and after recordation of this Agreement against the Property, Landowner shall have the full right to assign this Agreement as to the Property, or any portion thereof, *in* connection with any sale, transfer or conveyance thereof, and upon the express written assignment by Landowner and assumption by the assignee of such assignment in the form attached hereto as Exhibit G, and the conveyance of Landowner's interest in the Property related thereto, Landowner shall be released from any further liability or obligation hereunder related to the portion of the Property so conveyed and the assignee shall be deemed to be the "Landowner," with all rights and obligations related thereto, with respect to such conveyed property. Prior to recordation of this Agreement, any proposed assignment of this Agreement by Landowner shall be subject to the prior written consent of the City Manager on behalf of the City and the form of such assignment shall be subject to the approval of the City Attorney, neither of which shall be unreasonably withheld.

22. Agreement Runs with the Land. Except as otherwise provided *for* in Section 15 of this Agreement, all of the provisions, rights, terms, covenants, and obligations contained in this Agreement shall be binding upon the parties and their respective heirs, successors and assignees, representatives, lessees, and all other persons acquiring the Property, or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions of this Agreement shall be enforceable as equitable servitude and shall constitute covenants running with the land pursuant to applicable laws, including, but not limited to, Section 1468 of the Civil Code of the State of California. Each covenant to do, or refrain from doing, some act on the Property hereunder, or with respect to any owned property; (a) is for the benefit of such properties and is a burden upon such properties; (b) *runs with* such properties; and (c) is binding upon each party and each successive owner during its ownership of such properties or any portion thereof, and shall be a benefit to and a burden upon each party and its property hereunder and each other person succeeding to an interest in such properties.

23. Bankruptcy. The obligations of this Agreement shall not be dischargeable in bankruptcy.

24. Indemnification. Landowner agrees to indemnify, defend and hold harmless City, and its elected and appointed councils, boards, commissions, officers, agents, employees, and **representatives from** any and all claims, costs (including legal fees and costs) and liability for (1) any personal injury or property damage which may **arise directly** or indirectly as a result of any actions or inactions **by** the Landowner, or any actions or inactions of Landowner's contractors, subcontractors, agents, or employees in connection with the construction, improvement, operation, **or** maintenance of the Property and the Project, provided that Landowner **shall** have no indemnification obligation with respect to the gross negligence or **willful** misconduct of **City**, its contractors, subcontractors, agents or employees or with respect to the maintenance, use or condition of any improvement after the time it has been dedicated to and accepted by the City or another public entity (except **as** provided in **an** improvement

agreement or maintenance bond) and (2) any additional mitigation required, including but not limited to payment of any mitigation fees that *may* be imposed, as a result of a lawsuit filed by a third party challenging or seeking to invalidate the Project Approvals.

25. Insurance.

25.1. Public Liability and Property Damage Insurance. At all times that Landowner is constructing any improvements that will become public improvements, Landowner shall maintain in effect a policy of comprehensive general liability insurance with a per-occurrence combined single limit of not less than two million (\$2,000,000) dollars and a deductible of not more than fifty thousand (\$50,000) dollars per claim. The policy so maintained by Landowner shall name the City as an additional insured and shall include either a severability of interest clause or cross-liability endorsement.

25.2. Workers' Compensation Insurance. At all times that Landowner is constructing any improvements that will become public improvements, Landowner shall maintain Workers' Compensation insurance for all persons employed by Landowner for work at the Project site. Landowner shall require each contractor and subcontractor similarly to provide Workers' Compensation insurance for its respective employees. Landowner agrees to indemnify the City for any damage resulting from Landowner's failure to maintain any such insurance.

25.3. Evidence of Insurance. Prior to commencement of construction of any improvements which will become public improvements, Landowner shall furnish City satisfactory evidence of the insurance required in Sections 26.1 and 26.2 and evidence that the carrier is required to give the City at least fifteen (15) days prior written notice of the cancellation or reduction in coverage of a policy. The insurance shall extend to the City, its elective and appointive boards, commissions, officers, agents, *employees* and representatives and to Landowner performing work on the Project.

26. Excuse for Nonperformance. Landowner and City shall be excused from performing any obligation or undertaking provided in this Agreement, except any obligation to pay any sum of money under the applicable provisions hereof, in the event and so long as the performance of any such obligation is prevented or delayed, retarded or hindered by act of God, fire, earthquake, flood, explosion, action of the elements, war, invasion, insurrection, riot, mob violence, sabotage, inability to procure or general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts, condemnation, requisition, laws, orders of governmental, civil, military or naval authority, or any other cause, whether similar or dissimilar to the foregoing, not within the control of the Party claiming the extension of time to perform. The Party claiming such extension shall send written notice of the claimed extension to the other Party within thirty (30) days from the commencement of the cause entitling the Party to the extension.

27. Third Party Beneficiaries. This Agreement *is* made and entered into for the sole protection and benefit of the Landowner and, the City and their successors and assigns. No other person shall have any right of action based upon any provision in this Agreement.

28. Notices. All notices required by this Agreement, the enabling legislation, or the procedure adopted pursuant to Government Code Section 65865, shall be in writing and delivered in person or sent by certified mail, postage prepaid.

Notice required to be given to *the* City shall be addressed as follows:

CITY OF LODI
City Manager
P.O. Box 3006
Lodi, CA 95241-1910

Notice required to be given to the Landowner shall be addressed as follows:

FRONTIER COMMUNITY BUILDERS, INC.
10 100 Trinity Parkway, Suite 420
Stockton, California 95219

Either party may change the address stated herein by giving notice in writing to the *other* party, and thereafter notices shall be addressed and transmitted to the new address.

29. Form of Agreement; Recordation; Exhibits. Except when this Agreement *is* automatically terminated due to the expiration of the Term of the Agreement or the provisions of Section 5.3 (Automatic Termination Upon Completion and Sale of Residential Lot), the City shall cause this Agreement, any amendment hereto and any other termination of any parts or provisions hereof, to be recorded, at Landowner's expense, with the county Recorder within ten (10) days of the effective date thereof. Any amendment or termination of this Agreement to **be** recorded that affects less than all of the Property shall describe the portion thereof that is the subject of such amendment or termination. This Agreement is executed in three duplicate originals, each of which ~~is~~ deemed to be an original. This Agreement consists of 31 pages and 14 Exhibits, which constitute ~~the~~ entire understanding and agreement of the parties.

30. Further Assurances. The Parties agree to execute such additional instruments and to undertake such actions **as** may **be necessary** to effectuate the intent of this Agreement.

31. City Cooperation. The City agrees to cooperate with Landowner in securing all permits which may be required by City. In the event State or Federal laws or regulations enacted after the Effective Date, or action *of* any governmental jurisdiction, prevent delay or preclude compliance with one or more provisions of this Agreement, or require changes in plans, maps or permits approved by **City**, the parties agree that the provisions of this Agreement

shall be modified, extended, or suspended as may be necessary to comply with such State and Federal laws or regulations or the regulations of other governmental jurisdictions. Each party agrees to extend to the other its prompt and reasonable cooperation in so modifying this Agreement or approved plans.

IN WITNESS WHEREOF, the City of Lodi, a municipal corporation, has authorized the execution of this Agreement in duplicate by its Mayor and attested to by its City Clerk under the authority of Ordinance No.1788, adopted by the ~~City~~ Council of the City of Lodi on the 6th day of December, 2006, and Landowner has caused this Agreement to be executed.

"CITY"

"LANDOWNER"


CITY OF LODI,
a municipal corporation

FRONTIER COMMUNITY BUILDERS, INC.

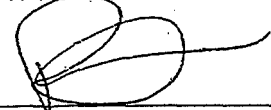
By:


Blair King
City Manager

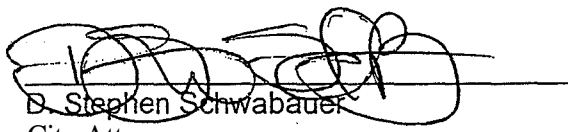
By:


Name: Thomas P. Doucette
Its: President

ATTEST:


Randi Johl
City Clerk

APPROVED AS TO FORM:


D. Stephen Schwabauer
City Attorney

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

File No: ()

APN No:

STATE OF California)SS

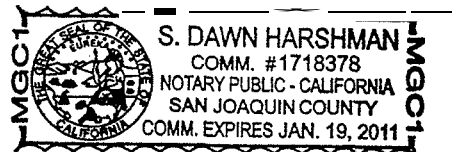
COUNTY OF SAN JOAQUIN)

On June 2, 2008 before me, S. Dawn Harshman, Notary Public, personally appeared Thomas P. Dovicelle who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I **certify** under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



This area for official notarial seal.

OPTIONAL SECTION CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the documents.

- ☐ INDIVIDUAL
☒ CORPORATE OFFICER(S) TITLE(S) : President
☐ PARTNER(S) ☐ LIMITED ☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER

SIGNER IS REPRESENTING:

Frontier Community Builders

Name of Person or Entity

Name of Person or Entity

OPTIONAL SECTION

Though the data requested here is not required by law, it could prevent fraudulent reattachment of this form.

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED BELOW

TITLE OR TYPE OF DOCUMENT: Development Agreement - City of Lodi
NUMBER OF PAGES 68 DATE OF DOCUMENT December 6, 2006

SIGNER(S) OTHER THAN NAMED ABOVE Randi Johl - City Clerk Blair King - City Manager
D. Stephen Schwabauer - City Attorney

Reproduced by <<Table Field EDNAME Not Found!>> 11/2007

shall be modified, extended, or suspended as may be necessary to comply with such State and Federal laws or regulations or the regulations of other governmental jurisdictions. Each party agrees to extend to the other its prompt and reasonable cooperation in so modifying this Agreement or approved plans.

IN WITNESS WHEREOF, the City of Lodi, a municipal corporation, has authorized the execution of this Agreement in duplicate by its Mayor and attested to by its City Clerk under the authority of Ordinance No.1788, adopted by the City Council of the City of Lodi on the 6th day of December, 2006, and Landowner has caused this Agreement to be executed.

"CITY"

"LANDOWNER

CITY OF LODI,
a municipal corporation

FRONTIER COMMUNITY BUILDERS, INC.

By: _____

Blair King
City Manager

By: _____

Thomas P. Doucette
Name: THOMAS P. DOUCETTE
Its: PRESIDENT

Randi Johl
City Clerk

APPROVED AS TO FORM:

D. Stephen Schwabauer
City Attorney

ACKNOWLEDGMENT

State of California

County of San Joaquin

On May 19, 2008 before me, Randi Johl, City Clerk
(insert name and title of the officer)

personally appeared Blair King, City Manager,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature]

(Seal)



EXHIBIT LIST

| | |
|--------------|--|
| Exhibit A-1: | Legal Description of the Property |
| Exhibit A-2: | Diagram of the Property |
| Exhibit B: | General Plan Land Use Map |
| Exhibit B-1: | Zoning Map for Project Site |
| Exhibit C-1: | Large Lot Tentative Subdivision Map |
| Exhibit C-2: | Reserved |
| Exhibit D: | Development Plan and Infrastructure Map for the Property |
| Exhibit E: | Growth Management Allocations |
| Exhibit F: | Annexation Approvals |
| Exhibit G: | Form of Assignment |
| Exhibit H: | Schedule of improvements |
| Exhibit I: | Park Improvements |
| Exhibit J: | Required Park Amenities |
| Exhibit K: | Settlement Agreement among Frontier Community Builders, Inc., Citizens for Open Government and the City of Lodi |

EXHIBIT A-1

LEGAL DESCRIPTION OF THE PROPERTY

The land referred to herein is situated in the State of California, County of San Joaquin, City of Lodi, and is described as follows:



MCR Engineering,
Inc.

PLANNING • ENGINEERING •
SURVEYING

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MAY 24 2006

COMMUNITY DEVELOPMENT DEPT
CITY OF LODI

(209) 239-6229

FAX (209) 239-8839

1242 Dupont Court

Montecito, California 95336

LEGAL DESCRIPTION
for
ANNEXATION PURPOSES

ALL THAT REAL PROPERTY SITUATE IN THE COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, BEING A PORTION OF THE WEST ONE-HALF OF SECTION 15, TOWNSHIP 3 NORTH, RANGE 6 EAST, MOUNT DIABLO BASE AND MERIDIAN, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 15, THENCE, S 00° 01' 59" E 75.01 FEET ALONG THE WEST LINE OF SAID SECTION 15 TO THE POINT OF BEGINNING, THENCE CONTINUING ALONG SAID WEST LINE, S 00° 01' 59" E 5208.25 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 15, THENCE ALONG THE SOUTH LINE OF SAID SECTION 15, S 89° 14' 47" E 1162.65 FEET TO THE POINT OF INTERSECTION OF THE PROJECTION OF THE MOST SOUTHWESTERLY LINE OF PARCEL 1 AS SHOWN ON THAT CERTAIN MAP FILED FOR RECORD IN BOOK 16 OF PARCEL MAPS, AT PAGE 87, SAN JOAQUIN COUNTY RECORDS, THENCE, LEAVING SAID SOUTH LINE, ALONG SAID PROJECTED LINE, N 05° 39' 54" E 230.51 FEET, THENCE ALONG THE EXTERIOR LINES OF SAID PARCEL 1, N 89° 14' 47" W 50.43 FEET, THENCE, N 00° 01' 12" W 410.00 FEET, THENCE, S 89° 14' 47" E 185.00 FEET TO THE NORTHEAST CORNER OF SAID PARCEL 1, THENCE ALONG THE EAST LINE OF SAID PARCEL 1, S 00° 01' 12" E 261.18 FEET TO THE SOUTHWESTERLY CORNER OF THAT CERTAIN PARCEL LABELED "INSTRUMENT # 80060064" AS SHOWN ON THAT CERTAIN MAP FILED FOR RECORD IN BOOK 28 OF SURVEYS, PAGE 47, RECORDS OF SAID COUNTY, THENCE ALONG THE SOUTHERLY LINE OF LAST SAID PARCEL, S 89° 14' 47" E 1000.00 FEET, THENCE, S 00° 01' 72" E 378.50 FEET TO THE SOUTH LINE OF SAID SECTION 15, THENCE ALONG SAID SOUTH LINE, S 89° 14' 47" E 320.67 FEET TO THE SOUTH ONE QUARTER CORNER OF SAID SECTION 15, THENCE ALONG THE NORTH-SOUTH CENTERLINE OF SAID SECTION 15, N 00° 00' 25" W 2639.00 FEET TO THE CENTER OF SAID SECTION 15, THENCE CONTINUING ALONG SAID NORTH-SOUTH CENTERLINE, N 00° 00' 08" E 1321.38 FEET TO THE SOUTHEAST CORNER OF THE NORTH ONE-HALF OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 15, THENCE ALONG THE SOUTH LINE OF SAID NORTH ONE-HALF OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 15, N 89° 12' 16" W 1321.83 FEET, THENCE LEAVING SAID SOUTH LINE N 00° 00' 08" W 828.63 FEET TO THE SOUTHEAST CORNER OF THE CITY OF LODI WELL SITE, THENCE ALONG THE SOUTHERLY AND WESTERLY LINES OF SAID WELL SITE THE FOLLOWING TWO (2) COURSES:

1. N 89° 12' 53" W 427.50 FEET
2. N 00° 00' 08" E 417.50 FEET,

THENCE, N 89° 12' 53" W 894.20 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 262.708 ACRES MORE OR LESS.

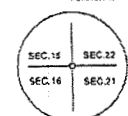
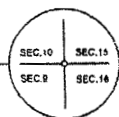
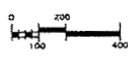
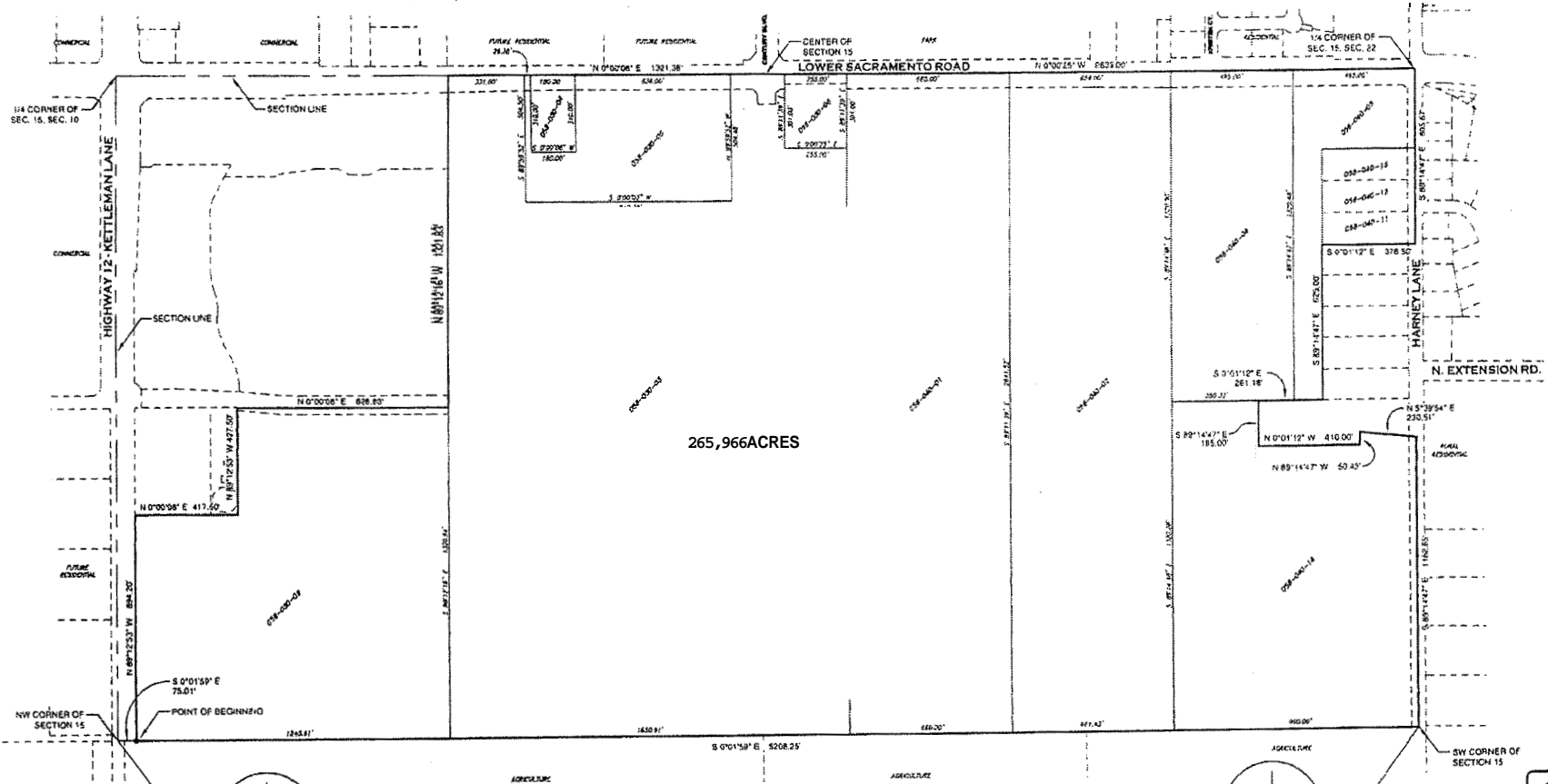
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EXHIBIT A-2
DIAGRAM OF THE PROPERTY

ANNEXATION MAP

SOUTHWEST GATEWAY

BEING A PORTION OF THE WEST ONE-HALF OF SECTION 15, TOWNSHIP 3
NORTH, RANGE 6 EAST, MOUNT DIABLO EASE AND MERIDIAN.
SAN JOAQUIN COUNTY, CALIFORNIA



COPYRIGHT © 2002 MCR ENGINEERING

ANNEXATION MAP

SOUTHWEST
GATEWAY
LODI CALIFORNIA

| REVISIONS | | | |
|-----------|--------------|------|----------|
| NO. | DESCRIPTIONS | DATE | APPROVED |
| | | | |
| | | | |
| | | | |

MCR Engineering, Inc.
PLANNING • ENGINEERING • SURVEYING
2000 T Street, Suite 100 • Lodi, California 95240
951-268-3447 FAX 951-268-3448

JOB NO. 02-117
DATE 11/1/02
SCALE 1" = 200' A.S.
BY J.E.
CHK BY J.E.
PLS
APPROVED BY J.E.



SHEET
NUMBER
1
OF
1

EXHIBIT B

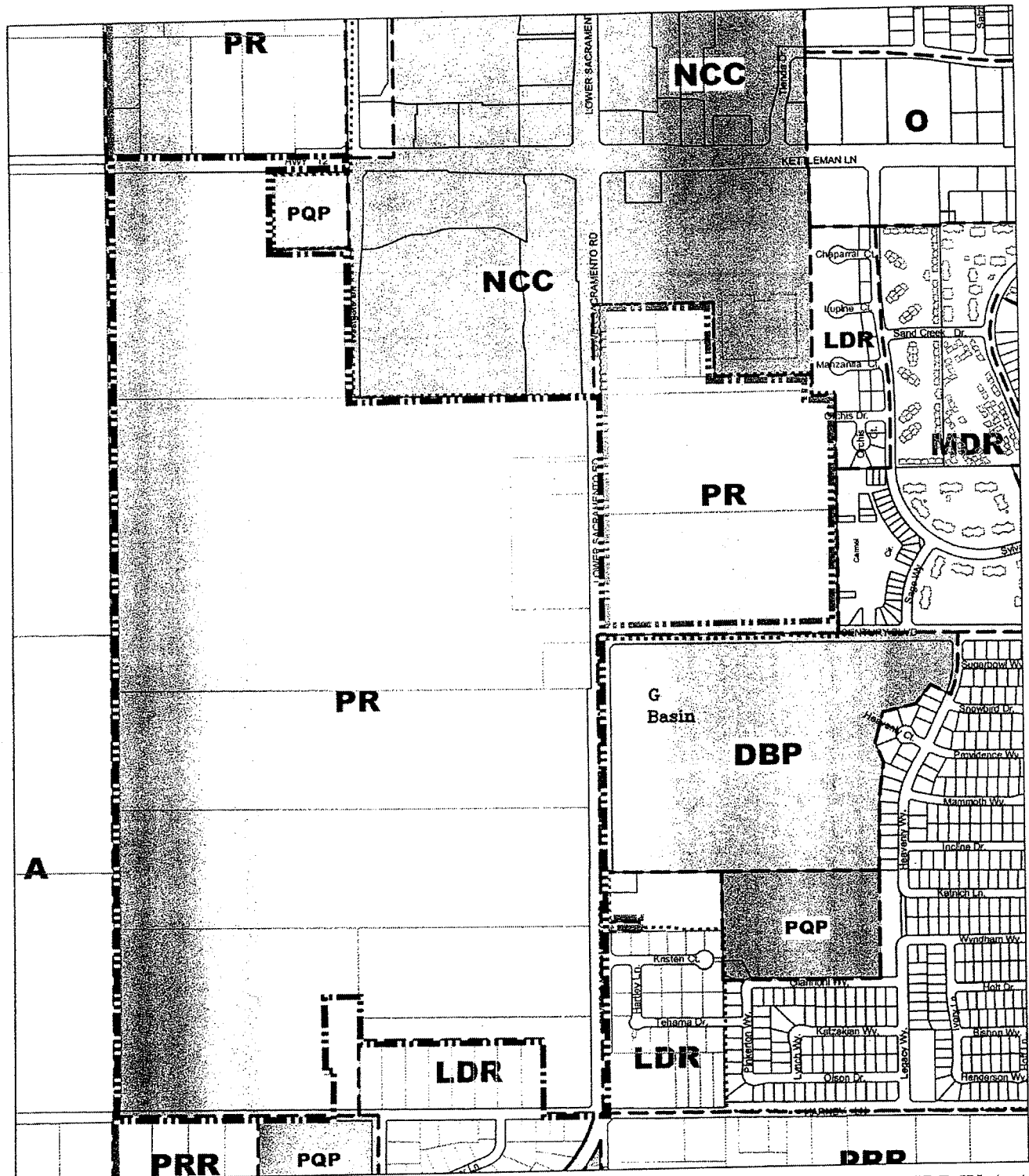
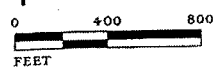


FIGURE IV.A-4

LSA



- SOUTHWEST GATEWAYS PROJECT SITE
- OTHER AREAS TO BE ANNEXED
- CITY LIMITS
- SPHERE OF INFLUENCE

- LDR LOW DENSITY RESIDENTIAL
- MDR MEDIUM DENSITY RESIDENTIAL
- HDR HIGH DENSITY RESIDENTIAL
- PR PLANNED RESIDENTIAL
- NCC NEIGHBORHOOD/COMMUNITY COMMERCIAL
- GC GENERAL COMMERCIAL
- DC DOWNTOWN COMMERCIAL
- O OFFICE
- PQP PUBLIC/QUASI PUBLIC
- DBP DETENTION BASINS AND PARKS
- A AGRICULTURE
- PRR PLANNED RESIDENTIAL RESERVE

Lodi Annexation EIR
General Plan Designations

SOURCE: CITY OF LODI, 2005.

I:\LOD531\wside swgate\figures\Fig_IVA4.ai (4/6/06)

Exhibit B-1 Zoning Map

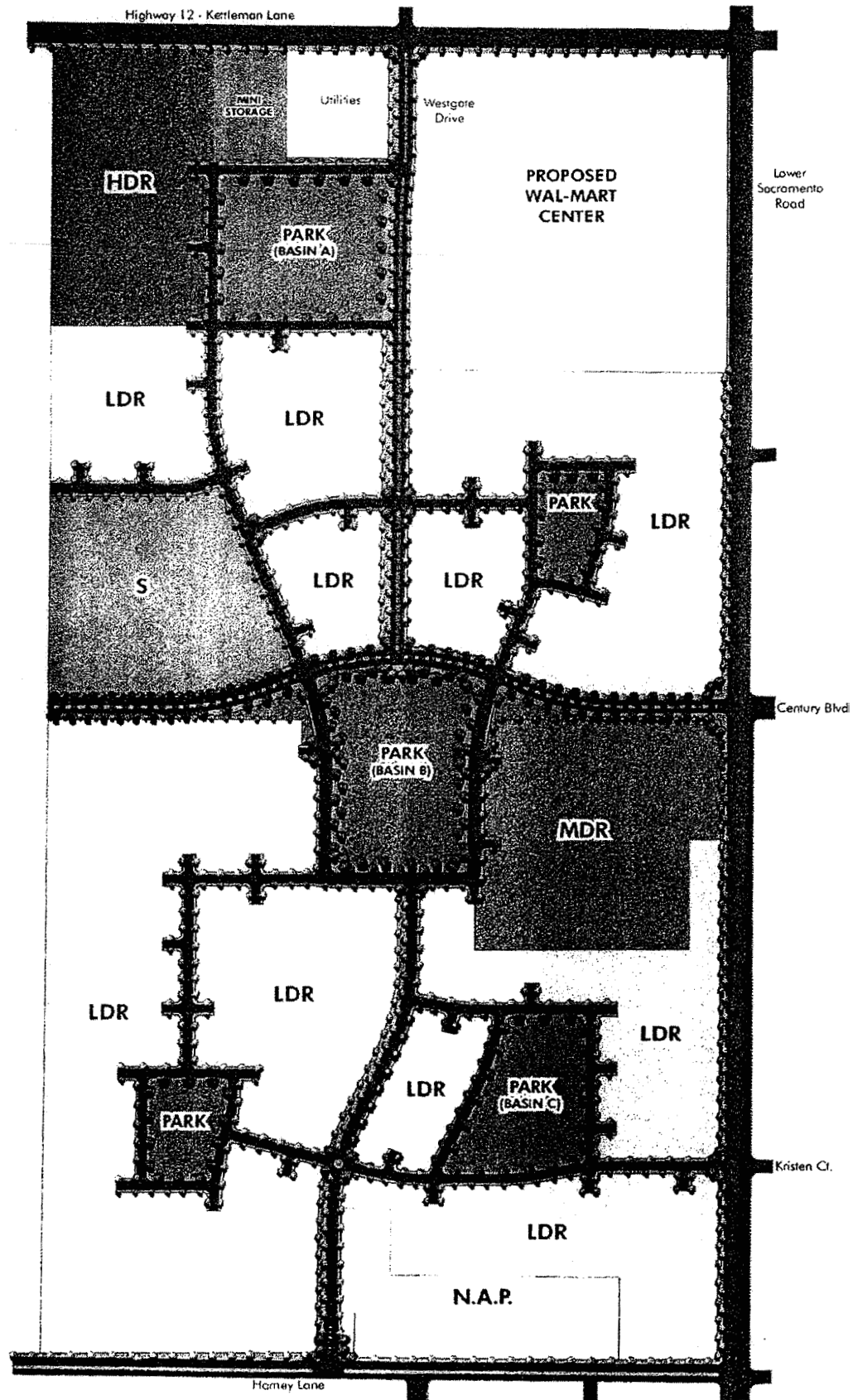


EXHIBIT C-1

Large Lot Tentative Subdivision Map

859465

Version 5 Final 11/09/06

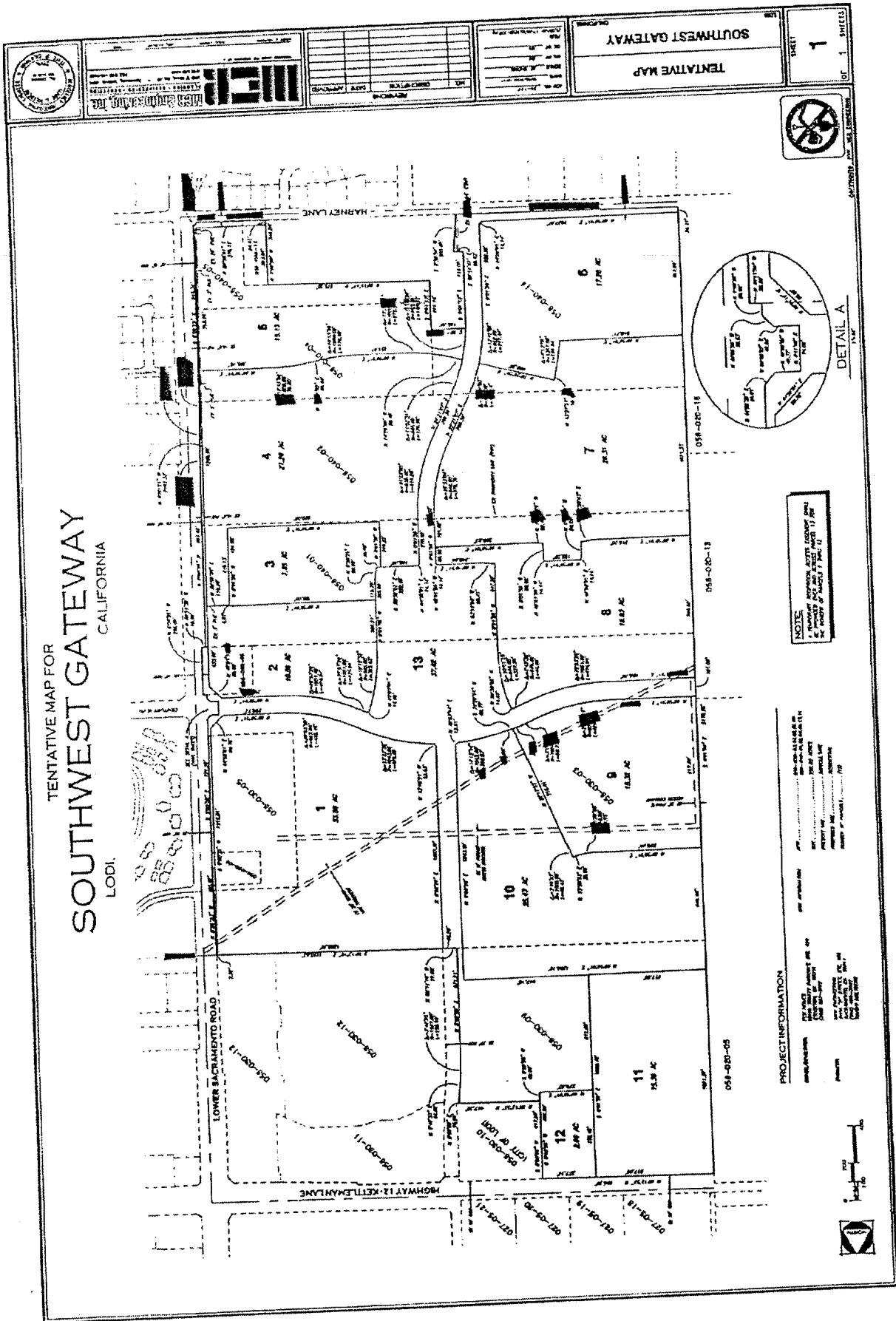


EXHIBIT C-2

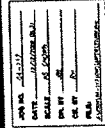
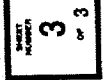
Reserved

EXHIBIT D

DEVELOPMENT PLAN AND INFRASTRUCTURE MAP FOR THE PROPERTY

859465
Version 5 Final 11/09/06

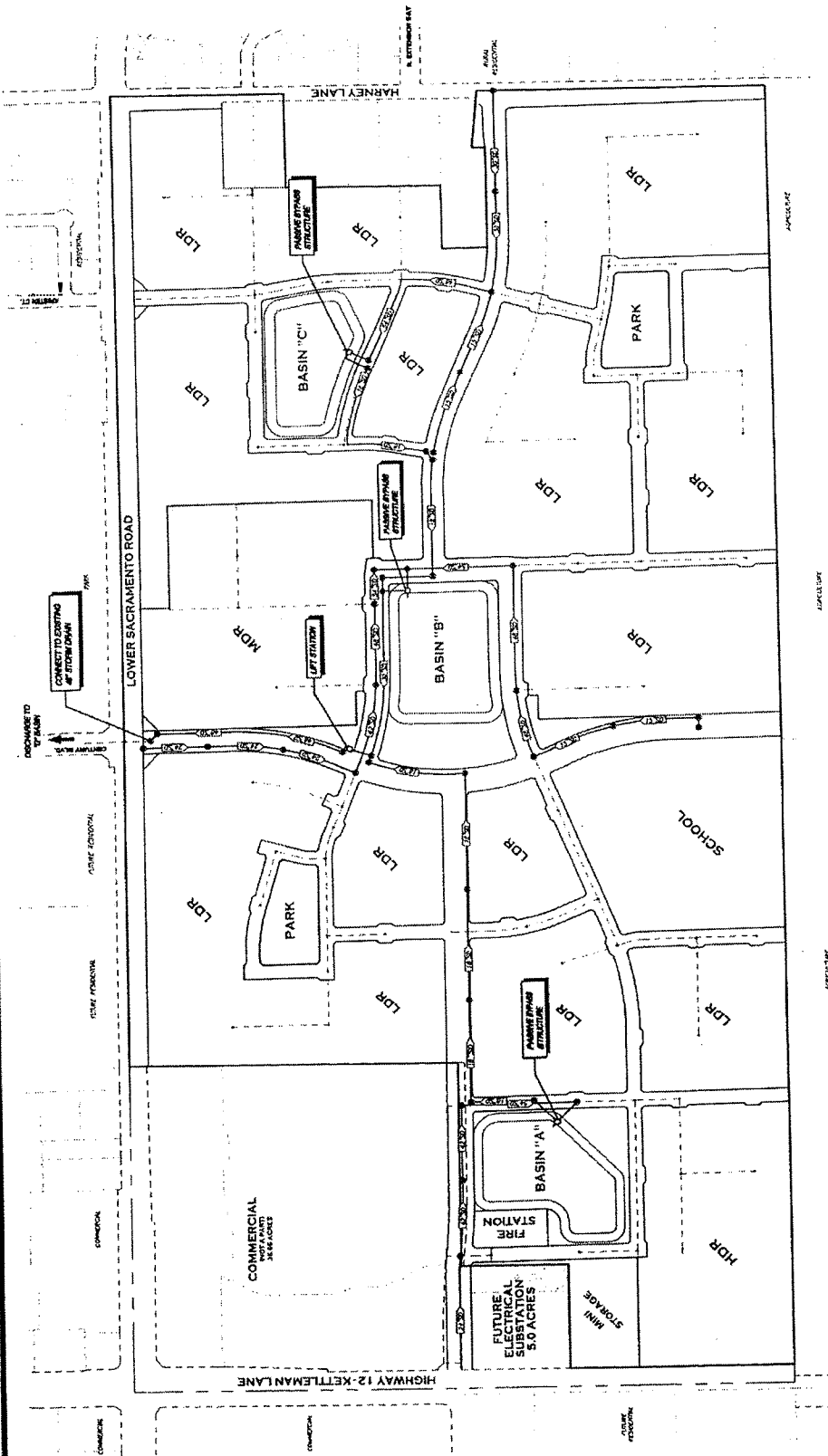


[illegible]

**SOUTHWEST
GATEWAY**

1001

**FIGURE 3
MASTER STORM DRAIN PLAN**



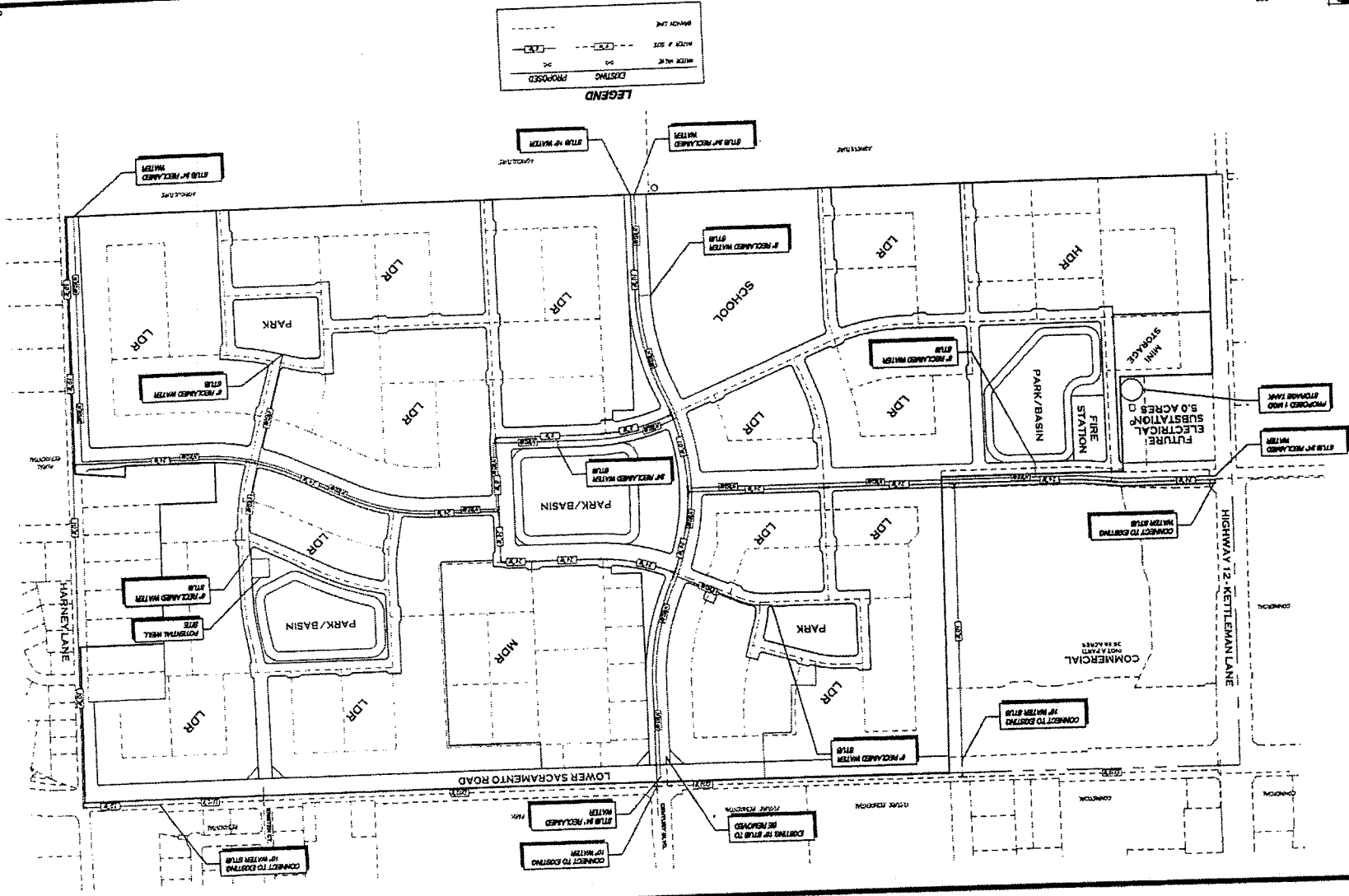
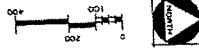


EXHIBIT E**SOUTHWEST GATEWAY PROJECT
GROWTH MANAGEMENT ALLOCATION TABLE**

| Applicable Date | Allocation |
|---|--|
| Effective Date of Development Agreement | 300 Low Density units (Reserve) 300 High Density units (Reserve) |
| Within the Calendar Year One Year after Effective Date | 59 Low <i>Density</i> units 75 Medium Density units |
| Within the Calendar Year Two Years after Effective Date | 59 Low Density units — 29 Medium Density units |
| Within the Calendar Year Three Years after Effective Date | 59 Low Density units 28 Medium Density units |
| Within the Calendar Year Four Years after Effective Date | 59 Low Density units 28 Medium Density units |
| Within the Calendar Year Five Years after Effective Date | 59 Low Density units |
| Within the Calendar Year Six Years after Effective Date | 59 Low Density units |
| Within the Calendar Year Seven Years after Effective Date | 58 Low Density units |
| Within the Calendar Year Eight Years after Effective Date | 58 Low <i>Density</i> units |

EXHIBIT F
ANNEXATION APPROVALS

Doc #: 2007-129807
 7/16/07 3:00 PM
 Page: 1 of 8 Fee: \$0
 Gary W. Freeman
 San Joaquin County Recorders
 Paid By: SHOWN ON DOCUMENT



CERTIFICATE OF COMPLETION

San Joaquin LAFCo
 1860 E. Hazelton Avenue
 Stockton, CA 95205

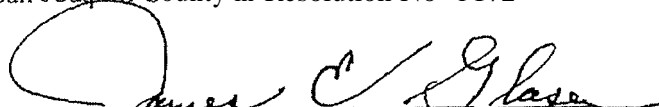
Short Form Designation:

SOUTHWEST GATEWAY REORGANIZATION TO THE CITY OF LODI (LAFC 16-06)

Annexation of 3 18 acres to the City of Lodi with concurrent detachments from the Woodbridge Fire Protection District and the San Joaquin County Resource Conservation District

- 1 Filed pursuant to action by the City of Lodi
- 2 The name of each district or city involved in this change of organization or reorganization and the kind or type of change of organization ordered for each such city or district are as Follows

| <u>CITY OR DISTRICT</u> | <u>TYPE OF CHANGE OF ORGANIZATION</u> |
|---|---------------------------------------|
| City of Lodi | Annexation |
| Woodbridge Fire Protection District | Detachment |
| San Joaquin County Resource Conservation District | Detachment |
- 3 The city or districts are located in the following county (ies): San Joaquin.
4. Boundary description for said formation or change has been attached as Exhibit A
5. Terms and conditions, if any, are provided in said resolution, attached.
- 6 I hereby certify that the action **taken** by adoption of the above cited resolution complies with the boundaries and conditions specified by the Local Agency Formation Commission of San Joaquin County in Resolution No 1172


 JAMES E. GLASER, EXECUTIVE OFFICER
 San Joaquin Local Agency Formation Commission

Completion Date: July 16, 2007

SAN JOAQUIN LAFCO CONDUCTING AUTHORITY
RESOLUTION NO. 1172

RESOLUTION ORDERING THE SOUTHWEST GATEWAY REORGANIZATION
TO THE CITY OF LODI (LAFC 16-06)

WHEREAS, the San Joaquin Local Agency Formation Commission (LAFCO), on March 16, 2007, approved LAFCO Resolution No. 1168, approving the Southwest Gateway Reorganization to the City of Lodi (LAFC 16-06), with certain terms and conditions;

WHEREAS, the reorganization consists of the annexation of territory to the City of Lodi with concurrent detachment from the Woodbridge Fire Protection District and the San Joaquin Resource Conservation District;

WHEREAS, the Commission did set forth the reasons for reorganization, made findings and determinations, including those required of the California Environmental Quality Act (CEQA), and approved terms and conditions of reorganization described in Exhibit A, LAFCO Resolution No. 1168, hereto and by this reference incorporated herein;

WHEREAS, the affected boundaries of the reorganization are described in Exhibit B, attached;

WHEREAS, the territory is uninhabited and did not have 100% owner consent;

WHEREAS, Government Code Section 56029 designates the Commission as the Conducting Authority to conduct proceedings for the reorganization pursuant to Part 4 of Division 3 of Government Code commencing with Section 57000;

WHEREAS, the Commission directed the Executive Officer, pursuant to Government Code Section 56881(d), to initiate protest proceedings pursuant to Part 4, commencing with Section 57000;

WHEREAS, the Executive Officer set the proposal for a hearing on **April** 24, 2007, at the hour of 11:00 a.m., in the Carnegie Forum, Lodi City Hall, 305 West Pine Street, Lodi, California;

WHEREAS, notice, in the form and manner required by law, has been given for the conducting authority proceedings by the Executive Officer, pursuant to Government Code Section 57025;

WHEREAS, pursuant to Government Code Section 57002, the Executive Officer has conducted the duly noticed public hearing on the reorganization for the purpose of receiving written protests;

WHEREAS, the conducting authority proceeding hearing **was** concluded on **April** 24, 2007;

WHEREAS, after the conclusion of the hearing, the Commission shall determine the value of any written protests received;

EXHIBIT F

WHEREAS, three written protests were received either prior to, or upon conclusion of the hearing, and finds that the value of written protests received and not withdrawn is less than a majority of the landowners owning more than 50% of the assessed value of land within the territory.

NOW, 'THEREFORE, THE SAN JOAQUIN LOCAL AGENCY FORMATION COMMISSION HEREBY RESOLVES, DETERMINES, **AND ORDERS** as follows:

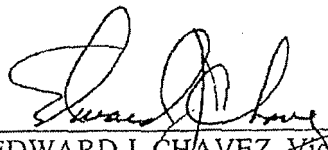
1. Certifies as a Responsible Agency, the Coinmission has reviewed and considered the City of Lodi's Environmental Impact Report (State Clearinghouse No. 2005092096) and adopts the CEQA Findings and Statement of Overriding Consideration as certified by the City of Lodi.
2. The subject reorganization is hereby ordered pursuant to Government Code Section 57075(b);
3. Directs the Executive Officer to file a Certificate of Completion and record this reorganization in the manner stated in Government Code Section 57000 et. seq. upon receipt of the appropriate Stare Board of Equalization Fees; the map and legal description prepared pursuant to the requirements of the State Board of Equalization and accepted to form by the Executive Officer, **and** the specified tenns and conditions;
4. The City of Lodi shall record a Certificate of Williamson Act Contract Termination for Contract No. 750.516 for Assessor Parcel Number 058-030-03 (former Assessor's Account Numbers 62346 and 057-050-03) with the County Recorder at the same time as the Executive Officer files the Certificate of Completion if it exercises its option not to succeed to this contract.;and;
5. The reorganization is subject to the terms and conditions contained in LAFCO Resolution No. 1168, Exhibit **A**, and the boundaries further described *on the map* and *legal description*, Exhibit B hereto and **by** this reference incorporated herein.


PASSED AND ADOPTED this 18th day of May 2007 by the following vote:

AYES: Commissioners Edward J. Chavez, **Steven** Nilssen, Larry Ruhstaller, **Jack** Snyder

NOES: None

THE FOREGOING IS A CORRECT COPY OF
THE ORIGINAL ON FILE IN THIS OFFICE


EDWARD J. CHAVEZ, Vice Chair
San Joaquin Local Agency
Formation Commission

By: 
COMMISSION CLERK
Date: 06-12-07

RESOLUTION NO. 1168**BEFORE THE SAN JOAQUIN LOCAL AGENCY FORMATION COMMISSION
APPROVING THE SOUTHWEST GATEWAY REORGANIZATION
TO THE CITY OF LODI (LAFC 16-06)**

WHEREAS, the above entitled proposal was initiated by filing by the City of Lodi and on January 9, 2007, the Executive Officer certified the application filed for processing in accordance with the Local Government Reorganization Act; and

WHEREAS, the Commission held a public hearing on the proposed reorganization on March 16, 2007, in the Board of Supervisors Chambers, County Courthouse, pursuant to notice of hearing which was posted and mailed in accordance with State law; and

WHEREAS, at said hearing the Commission heard and received evidence, both oral and written regarding the proposal, and all persons present were given an opportunity to be heard; and

WHEREAS, the City of Lodi approved an Environmental Impact Report for the project, pursuant to the California Environmental Quality Act (CEQA) and the State CEQA Guidelines;

WHEREAS, there is one Williamson Act Contract within the boundaries of the proposed annexation territory;

WHEREAS, the subject territory is uninhabited and does not have 100% owner-consent;

NOW, THEREFORE, the San Joaquin Local Agency Formation Commission DOES HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

Section 1. Certifies that, as a Responsible Agency, the Commission has reviewed and considered the City of Lodi's Environmental Impact Report (State Clearinghouse No. 2005092096

Section 2. Determines, pursuant to government Code Section 56754, the City of Lodi may exercise its option to not succeed to the rights, duties, and powers of the Williamson Act Contract for APN 058-030-03 pursuant to Section 51243.5 because:

- a. City of Lodi Resolution No. 3623, "Protesting Execution of a California Land Conservation Contract," passed on September 18, 1973, resolved that the City protests the execution of the California Land Conservation contract initiated by John and Ann Van Ruiten, Assessor's Account Numbers 45546 and 62346. Assessor's Account Number 62346 is now APN 058-030-03. The resolution identified the affected contract and the

February 15, 2007

SOUTHWEST GATEWAY ANNEXATION TO THE CITY OF LODI

San Joaquin County California

A portion of Sections 15 and 22, Township 3 North, Range 6 East, Mount Diablo Base and Meridian, more particularly described as follows:

Beginning at the northwest corner of said Section 15, said corner being in State Highway Route No. 12 (also known as Kettleman Lane) right-of-way; (1) thence along the north line of said Section 15, *being in* said Highway's right-of-way, South 89°12'53" East, 1,321.75 feet to the Lodi City Limit line; thence along said City Limit line the following seventeen (17) courses (*being* courses 2 through 18): (2) South 0°00'08" West, 75.01 feet, (3) North 89°12'53" West, 427.50 feet, (4) South 0°00'08" West, 417.50 feet, (5) South 89°12'53" East, 427.50 feet, (6) South 0°00'08" West, 828.63 feet, (7) South 89°12'16" East, 1,361.83 feet to the east line of Lower Sacramento Road, (8) along said east line, North 0°00'08" East, 499.77 feet, (9) South 89°11'22" East, 621.51 feet, (10) South 0°00'08" West, 406.18 feet, (11) South 89°11'22" East, 530.15 feet, (12) South 0°11'12" West, 94.00 feet, (13) South 89°13'48" East, 728.75 feet, (14) South 0°00'08" West, 1,320 feet, (15) North 89°12'40" West, 1,280 feet to the former east line of Lower Sacramento Road, (16) along said former east line, South 0°00'25" East, 1,592.04 feet, (17) South 89°08'43" East, 170.02 feet, and (18) South 0°00'25" East, 57.01 feet to the north line of SUNNYSIDE ESTATES (the map of which is filed in Book of Official Maps and Plats, Volume 17, page 128, San Joaquin County Records); (19) thence leaving said City Limit line, North 89°08'43" West, 155.02 feet to a point on the existing east line of Lower Sacramento Road, said point being 55.00 feet easterly of the north-south quarter section line through said Section 15; (20) thence South 0°00'25" East along said east line, 935 feet to the northerly end of the round corner curve at the northeast corner of the intersection of Lower Sacramento Road and Harney Lane; (21) thence along said round corner, southeasterly along a curve to the left having a radius of 30.00 feet, a central angle of 89°06'57" and an arc length of 46.66 feet to the easterly end of said round corner curve; (22) thence southerly, 55.07 feet to the easterly end of the round corner curve at the southeast corner of said intersection; (23) thence along said round corner, southwesterly along a curve to the left having a radius of 30.00 feet, a central angle of 87°09'44" and an arc length of 45.64 feet to the southerly end of said round corner curve; (24) thence westerly 121.60 feet to the southerly end of the round corner curve at the southwest corner of said intersection; (25) thence along said round corner curve, northwesterly along a curve to the left having a radius of 30.00 feet, a central angle of 65°52'48" and an arc length of 34.49 feet to the westerly end of said round corner curve, *being on* the south line of Harney Lane, said south line being 30.00 feet southerly of the north line of said Section 22; (26) thence along said south line, North 89°14'47" West, 597.8 feet to the southerly projection of the west line of that certain parcel of land conveyed to Robert S. Pinnell, et ux, by deed recorded as Document No. 2005-293965, San Joaquin County Records;

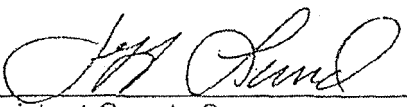
EXHIBIT F

(27) thence along said southerly projection and west line, North $0^{\circ}01'12''$ West, 408.50 feet to the northwest corner thereof; (28) thence along the westerly projection of the north line of said Pinnell parcel, North $89^{\circ}14'47''$ West 625 feet to the east line of Parcel 1 of parcel map filed in Book 16 of Parcel Maps, at page 87, San Joaquin County Records; thence along the east, north and west line of said Parcel 1 the following four (4) courses (being courses 29 through 32): (29) North $0^{\circ}01'12''$ West, 261.18 feet, (30) North $89^{\circ}14'47''$ West, 185.00 feet, (31) South $0^{\circ}01'12''$ East, 410.00 feet, and (32) South $89^{\circ}14'47''$ East, 50.43 feet; (33) thence continue along said west line and its southerly projection, South $4^{\circ}49'38''$ West, 260.31 feet to said south line of Harney Lane; (34) thence along said south line North $89^{\circ}14'47''$ West, 1,160 feet, more or less, to the west line of said Section 22; (35) thence along said west line and along the west line of said Section 15, Northerly, 5,313 feet, more or less, to the point of beginning.

Containing 320 acres, more or less.

APPROVED AS TO DESCRIPTION:
County Surveyor

By:


Assistant County Surveyor
2-16-2007



SV-7B001-T1

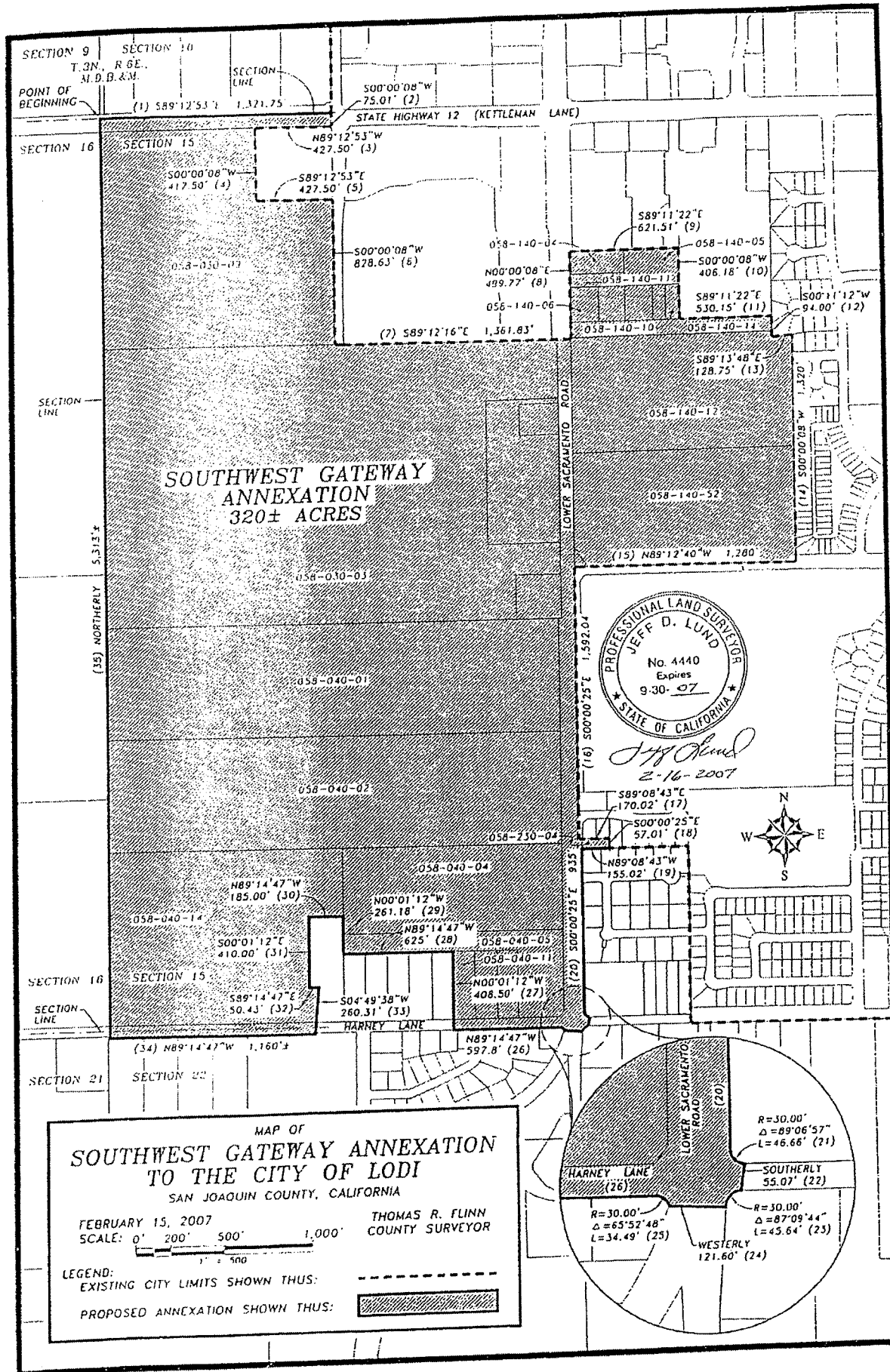


EXHIBIT G

FORM OF ASSIGNMENT

OFFICIAL BUSINESS

Document entitled to free recording
Government Code Section 6103

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910
Attn: City Clerk

(SPACE ABOVE THIS LINE RESERVED FOR RECORDERS USE)

ASSIGNMENT AND ASSUMPTION AGREEMENT
RELATIVE TO FRONTIER COMMUNITY BUILDERS WESTSIDE
DEVELOPMENT AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (hereinafter, the "Agreement") is entered into this _____ day of _____, 200_____, by and between *Frontier Community Builders*, a _____ corporation (hereinafter "Developer"), and _____, a _____ (hereinafter "Assignee").

RECITALS

1. On _____, 2006, the City of Lodi and Developer entered into that certain agreement entitled "Development Agreement By and Between The City of Lodi and Frontier Community Builders, Inc. related to the development known as Frontier Community Builders Southwest Gateway Project (hereinafter the "Development Agreement"). Pursuant to the Development Agreement, Developer **agreed** to develop certain property more particularly described in the Development Agreement (hereinafter, the "Subject Property"), subject to certain conditions and obligations as **set** forth in the Development Agreement. The Development Agreement was recorded against the Subject Property in the Official Records of San Joaquin County on _____, 2006, as Instrument No. **—**_____.

2. Developer intends to convey a portion of the Subject Property to Assignee, commonly referred to as Parcel _____, and more particularly identified and described in Exhibit A-1 and Exhibit A-2, attached hereto and incorporated herein by **this** reference (hereinafter the "Assigned Parcel").

3. Developer desires to assign and Assignee desires to assume all of Developer's right, title, interest, burdens and **obligations** under *the* Development **Agreement** with respect to and **as** related to the Assigned Parcel.

ASSIGNMENT AND ASSUMPTION

NOW, THEREFORE, Developer and Assignee hereby agree as follows:

1. Developer hereby assigns, effective as of Developer's conveyance of the Assigned Parcel to Assignee, all of the rights, title, interest, burdens and obligations of Developer under the Development Agreement with respect to the Assigned Parcel. Developer retains all the rights, title, interest, burdens and obligations under the Development Agreement with respect to **all** other property within the Subject Property owned by Developer.

2. Assignee hereby assumes all of the rights, title, interest, burdens and obligations of Developer under the Development Agreement with respect to the Assigned Parcel, and agrees to observe and fully perform all of the duties and obligations of Developer under the Development Agreement with respect to the Assigned Parcel. The parties intend hereby that, upon the execution of this Agreement and conveyance of the *Assigned* Parcel to Assignee, Assignee shall become substituted for Developer as the "Developer" under the Development Agreement with respect to the Assigned Parcel.

3. All of the covenants, terms and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto *and* their respective heirs, successors and assigns.

4. The Notice Address described in Section 28 of the Development Agreement for the Developer with respect to the Assigned Parcel shall be:

FRONTIER COMMUNITY BUILDERS, INC.
10100 Trinity Parkway, Suite 420
Stockton, California 95219

IN WITNESS HEREOF, the parties hereto have executed this Agreement as of the day and year first above written. This Agreement may be signed in identical counterparts.

DEVELOPER:

ASSIGNEE:

FRONTIER COMMUNITY BUILDERS, INC.

a _____

By: _____

Print Name:

Title: Division President

By: _____

Print Name: _____

Title: _____

EXHIBIT d
SCHEDULE OF IMPROVEMENTS

859465
Version 5 Final 11/09/06

EXHIBIT H

Implementation and Phasing Memorandum

SW
RECEIVED

MAY 24 2006

Introduction

COMMUNITY DEVELOPMENT DEPT

The project phasing described below is intended to outline the anticipated sequencing of development. The project phasing plan is also intended to help ensure all necessary infrastructure would be in place and operational for connection and use as portions of the project phases come on line. The phasing schedule should be used as a guideline rather than a binding commitment because phasing must be flexible to respond to market absorption and other relevant conditions.

Phasing

The project is expected to be developed in four phases over a period of five to eight years. The first phase is expected to begin in the Spring of 2007 and the final phase is anticipated to be completed by the end of 2014.

The following schedule represents the expected phasing of the residential villages.

| <u>Phase</u> | <u>Type</u> | <u>Village(s)</u> | <u>Units</u> |
|--------------|-------------|-------------------|--------------|
| 1 | LDR | 2,4,5 | 345 |
| 1 | MDR | 1 | 84 |
| 1 | LDR | 3 | 120 |
| Subtotal | | | 549 |
| 2 | MDR | 6 | 64 |
| 3 | HDR | 7 | 210 |
| Subtotal | | | 274 |
| 3 | LDR | 9,12 | 214 |
| 3 | MDR | 8,10 | 96 |
| Subtotal | | | 310 |
| 4 | LDR | 11,13 | 148 |
| Grand Total | | | 1281 |

Phase 1: The first phase includes the extension of Century to the west edge of the property. Five villages totaling 549 homesites, a neighborhood park, the school site and the central park/basin are part of this phase. The sewer trunk lines will be relocated along the south end of the commercial property to Westgate Drive then south to Century Boulevard and extended west to edge of the project.

EXHIBIT H

Phase 2: The second phase includes Villages 6 and 7 west of the commercial site. This phase includes the apartment site. The park basin and fire station will be included with this phase unless previously developed with the shopping center improvements.

Phase 3: The third phase of the project is planned to include Villages 8,9,10 and 12 totaling 310 homesites. This phase includes the remaining two parks and the secondary entrance off of Lower Sacramento Road.

Phase 4: The final phase of the project includes Villages 11 and 13. All remaining streets and facilities will be installed with this phase.

EXHIBIT I

PARK IMPROVEMENTS

Westside/Southwest Gateway Development Agreement Basin/Park Area Summary

Westside Annexation

| Location | Basin (1), acres | Park | | Total, acres |
|----------|------------------|----------------|--------------|--------------|
| | | Net (2), acres | Gross, acres | |
| A | 2.9 | 1.6 | 1.6 | 4.5 |
| B | | 2.1 | 2.1 | 2.1 |
| C | 8.2 | 5.4 | 6.1 | 14.3 |

Southwest Gateway Annexation

| Location | Basin (1), acres | Park | | Total, acres | |
|-----------------------------|------------------|----------------|------------------|--------------|-----|
| | | Net (2), acres | Gross, acres.... | | |
| D | 5.9 | 1.5 | 1.5 | 7.4 | (3) |
| E | 6.7 | 2.4 | 2.4 | 9.1 | (4) |
| F | 4.8 | 1.5 | 1.5 | 6.3 | |
| G | | 2.2 | 2.2 | 2.2 | |
| H | | 2 | 2 | 2 | |
| Open Space on Century Blvd. | | 0 | 0 | 0 | (5) |

- (1) Westside Annexation area basin calculations not approved.
The **basin** area numbers are **subject** to change.
- (2) Net area measured from street right of way.
Area requirements are exclusive of bike and **ped** routes.
- (3) Park to be located at the southwest end of designated area.
- (4) **Park** to be located at the south **end** of designated area.
- (5) Two **slivers** of open space are **shown** on Century Blvd.
Neither area provides sufficient space for park facilities.

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EXHIBIT J

REQUIRED PARK AMENITIES

| | | Bike Rack | Pool | Water Play | Tennis | Basketball | Bocce | Horseshoes | Playground | Picnic Table | Picnic shelter (Rental) BBQ | Passive Area | Fields | Off Street Parking | Trees | Turf | Irrigation Boostei Pump | Restroom | Drinking Fountain | Furniture | Light | Bike/ Ped | Signs |
|-------------|---------------|--------------|------|---------------|--------|------------|-------|------------|------------|-----------------|--------------------------------------|-----------------|--------|--------------------------|-------|------|-------------------------------|----------|----------------------|-----------|-------|--------------|-------|
| A | Basin Park | X | | | | | | | X | X | X | | X | | X | X | X | | X | X | X | | X |
| B | Park | X | | | | X | X | X | X | X | X | | | | X | X | X | | X | X | X | X | X |
| | Basin | | | X | | | | | | | | | X | | X | X | X | | | | | | |
| C | Park | X | | | | | X | X | X | X | X | | | | X | X | X | X | X | X | X | X | X |
| | Basin | | | | | | | | | | | | X | | | | | | | | | | |
| D | Park | X | | | | X | | X | X | X | X | | | | X | X | X | | X | X | X | | X |
| | Basin | | | | | | | | | | | X | X | | X | X | X | | | | | | |
| E | Park | X | | X | | X | X | X | X | X | X | | | | X | X | X | X | X | X | X | X | X |
| | Basin | | | | | | | | | | | | X | | X | X | X | | | | | | |
| F | Park | X | | | | | | | X | X | X | | | | X | X | X | | X | X | X | | X |
| G | Park | X | | | | | | | X | X | X | | | | X | X | X | | X | X | X | | X |
| H | Park | X | | | | | | | X | X | X | | | | X | X | X | | X | X | X | | X |
| | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | |
| * 2nd Phase | | | | | | | | | | | | | | | | | | | | | | | |

859465

Version 5 Final 11/09/06

AGREEMENT TO AMEND
SOUTHWEST GATEWAY
DEVELOPMENT AGREEMENT
 AND REFRAIN FROM CHALLENGING LAND USE PROJECT

THIS AGREEMENT is made this ~~15th~~ day of November 2006 by and between the City of Lodi (City), a California General Law city, represented by the City Manager and City Attorney with the limited authority as described in Section 1.A; Citizens for Open Government, an unincorporated association (Citizens); and Frontiers Community Builders (Developer) a dba of Frontier Land Companies, a California Corporation. The Parties agree as follows:

1. Recitals.

A. The Parties to the Agreement.

The City of Lodi ("City") is a General Law city governed by a five-member city council. For all purposes herein and during all times during the negotiation of this Agreement the City Manager and City **Attorney** have represented the City. However in this Agreement and at all times during the negotiation of the Agreement the City Manager and/or City Attorney have lacked the capacity or legal authority to bind the City of Lodi and/or the City Council. The parties understand that throughout the negotiation and in executing this Agreement the City Manager and City Attorney can only recommend to the City Council that it take certain actions. All authority **and** discretion remains with the City Council over whether the City Council will approve or disapprove of this Agreement. The City Council is scheduled to hear the Project at a duly noticed public hearing scheduled for November 15, 2006.

Citizens is an unincorporated association that has commented on the development proposed by Developer. The "Project" referred to herein is as defined in the Development Agreement for the "FCB Southwest Gateway Project" with all Project Approvals described therein. Citizens desire to have certain mitigation measures and clarifications added to the *Development Agreement* negotiated between City and Developer that in the opinion of Citizens will further the interest of the City and the interest of the public. If these amendments are added to the draft Development Agreement in the form of this Agreement, which shall be an exhibit to the Development Agreements, then Citizens will support the Project, will not make negative comments about the Project's EIR or the Project at any City Council or other public hearings, and will not subsequently challenge the certification of the EIR or the Project Approvals, directly or indirectly. Ann Cerney shall be the sole spokesperson for Citizens and make these statements at City Council hearing.

Developer, a private entity, is the applicant for the Development Agreements and Project Approvals described therein. The term "Developer" includes all related entities of Developer and their successors in interest.

B. The parties agree that the Development Agreements contain commitments for major infrastructure and amenities that will result in public benefits for the City.

C. Although Citizens are not fully satisfied with all aspects of the Project and EIR, it has balanced the benefits of the Project, including the changes to the draft Development Agreements as set forth in this Agreement, against the adverse effects of the Projects **and** *has concluded* that the Projects, separately or combined, are substantially more beneficial to the City than detrimental.

2. Modification of Development Agreement.

The parties agree that the draft Development Agreement for the Project, scheduled to be considered by the City Council at the public hearing on November 15, 2006, is to be **hereby amended by and** through this Agreement, which shall be attached to the Development Agreement as Exhibit "K".

A. Mitigation For Agricultural Conversion Impacts of Project

(1) Developers shall obtain permanent easements to be held by the City or other qualified entity (e.g., Central Valley Farmland Trust) limiting the use of San Joaquin County real property to agricultural uses and related activities as are permitted from time to time under the agricultural zoning laws of the County ("Agricultural Conservation Easements"). In providing mitigation for impacts to agricultural land, Developer shall adhere to the terms of the final adopted San Joaquin County Agricultural Mitigation Ordinance, now under consideration by the San Joaquin County Board of Supervisors. (See November 14, 2006 draft Ordinance.)

(2) At a minimum, and notwithstanding the terms of the final, adopted County Ordinance, the Agricultural **Conservation** Easements shall be recorded on a 1:1 acre (conserved:developed) ratio against an aggregate total **of up to 240 acres**, more or less, contained within FCB Southwest Gateway Project, involving one or more parcels of land - though not necessarily contiguous - with each mitigation acre located within San Joaquin County and zoned for agricultural uses ("Protected Properties"). *If mitigation lands* are located in the Primary Zone of the San Joaquin Delta that lies within the County, the mitigation ratio shall be on a 2:1 acre (conserved:developed) basis. However, if prior to the Developer's compliance with this agricultural mitigation requirement, the San Joaquin Board of Supervisors excludes land within certain areas of the County (e.g., the Primary Zone of the Delta) from being used for agricultural mitigation purposes, the parties agree that those lands would be excluded from being used for mitigation purposes under this Agreement.

(3) At a *minimum*, and notwithstanding the terms of the final, adopted County Ordinance, the Agricultural Conservation Easements may only apply to Protected Properties that are not encumbered by (a) any other perpetual open space conservation easement or

deed restriction or (b) any other perpetual agriculture mitigation easement or deed restriction. The cost of obtaining the Agricultural Conservation Easements shall rest with the Developer. The Protected Properties must be subject to permanent restrictions on use to ensure the availability of agricultural production capacity by limiting non-agricultural development that is inconsistent with agriculture uses and related activities. In accordance with the County's November 14, 2006, draft Mitigation Ordinance section 9-1080.3, subdivision (e)(1), the Developer shall pay an administrative fee to cover the costs of administering, monitoring and enforcing the farmland conservation easement in an amount to **be** determined by the *qualified entity* that *will* hold the conservation easement. If the City holds the Agricultural Conservation Easements, the City will monitor the Protected Properties subject to the easements biannually through its Planning Commission to ensure compliance with the requirements of this provision. If the City is selected to hold the Agricultural Conservation Easements, Developer will pay City \$5,000 to compensate the City for monitoring cost/contingencies in connection with the Agricultural Conservation Easements for the Southwest Gateway Project.

(4) The Agricultural Conservation Easements shall be recorded in the applicable ratio(s) against a minimum of each acre to be developed (or more) within any phased Final Subdivision Map of the Project prior to the date the *first* residential building permit is issued to Developer for any such phase thereof.

(5) City shall notify Citizens of which site(s) are selected to meet the requirements of this provision 30 days prior to the recordation of any Agricultural Conservation Easements pursuant to this Agreement. If both Citizens and *the* City agree, the mitigation ratio applicable to mitigation lands outside of the Delta Primary Zone may be reduced if the Developer proposes to obtain conservation easements that, in the judgment of both Citizens and the **City**, have a greater mitigation value than lands that could otherwise be used as mitigation for agricultural impacts of the Projects under this provision.

8. Home Building, Energy and Conservation Features within the Project

1) Developer shall become a California Green Builder prior to the construction of the homes within the Projects. The California Green Builder program requires that **all** homes are at least 15% more energy efficient than currently mandated by Title 24 in California and meet guidelines for energy efficiency set by the **US** Environmental Protection Agency. The homes within the Projects may contain a variety of energy efficient features **and** alternative *energy* features **such as** high efficient insulation, high performance windows, high efficient heating and cooling equipment, cool roofing, radiant barriers, awnings, overhangs day lighting and qualified lighting.

2) Developer's status **as** a California Green Builder requires Developer to implement water conservation features that saves 20,000 gallons per home per year. Developer shall provide front yard landscaping using weather based irrigation controllers and drip irrigation and **may** utilize other water conservation features such as high efficiency fixtures and efficient plumbing technologies, products and materials. Developer also agrees to use weather based irrigation controllers in front yards, parks and common areas.

3) Developer **shall** make available solar power features and electrical car charging stations or outlets that homeowners within the Projects may elect to purchase as part of that homeowner's option package.

4) Developer agrees that at least 50% of the construction site waste shall be recycled or otherwise diverted from landfill disposal.

5) Developer shall use only EPA approved natural gas fireplaces, fireplace inserts, woodstoves or pellet stoves when such fireplaces are installed. Developer will comply with all federal, state and local laws and regulations pertaining to the installation of wood burning fireplaces.

6) Developer will encourage landscape maintenance companies to use electric-powered equipment.

7) Shade trees will be planted where appropriate throughout the Project and located to shade paved areas and to protect dwellings from energy consuming environmental conditions.

8) Developer agrees to comply with the California Green **Builder** program that applies to high density residential units. Currently a pilot program exists that is substantially similar to the low density program, with the exception of the 20,000 gallon per home per year in water conservation.

C. New Urbanism neighborhood design.

Developer believes that the Project's current land use plans promote the principles of New Urbanism that include neighborhoods that are walk-able, interconnected, that include pedestrian friendly streetscapes; bicycle friendly design elements; well integrated, highly visible, and publicly accessible open spaces. Developer is also *committed to designing the* specific components of the Projects to include housing and structural forms that are visually interesting, well modulated, constructed of high quality materials, proportionate to their surroundings, and a range of housing types, sizes and affordability.

D. Pedestrian Transit and Bicycle Infrastructure: Developer agrees to implement the following measures:

1) **Provide** pedestrian enhancing infrastructure that includes: sidewalks and pedestrian paths, direct pedestrian connections, street trees to shade sidewalks, pedestrian safety designs/infrastructure, street lighting and/or pedestrian **signalization** and signage, and

2) Provide bicycle-enhancing infrastructure that includes: bikeways/paths connecting to a bikeway system as well as secure bike parking.

E. Lodi Eastside: This provision is not applicable to the Southwest Gateway Agreement.

F. Water Supply: Additional entitlements for urban development within the Project area (i.e., subdivision maps, parcel maps, building permits, etc.) shall not be granted for any dwellings within the Project area after total water use exceeds the projected safe groundwater yield of the Project area until additional water sources (e.g., W.I.D. groundwater recharge or water treatment or otherwise) are available. According to the Westside-Southwest Gateway Project Water Supply Assessment (July 2006) ("WSA"), a ***total*** of approximately 347 acre feet per year for Southwest Gateway will be available for the Project upon its annexation while the total projected water demand will likely be in excess of that amount before full build-out occurs. The purpose of this provision, then, is to ensure that water use by the Project does not exceed the projected increase in safe groundwater yield attributable to annexation of the Project area into the City until additional water sources (e.g., W.I.D. groundwater recharge or water treatment or otherwise) are available. (See WSA, Figure 5-4.)

G. Agricultural Conflicts: Developer shall strive to phase development in a manner that will reduce land use conflicts with lands currently in agricultural use to the west of the Project. To the extent feasible, Developer will generally develop the Project in an east to west direction.

H. Challenges:

1) No Challenge by Citizens/Cerney: This Agreement will not become effective in the event that Citizens and/or Ann Cerney: **(1) file** any legal action challenging the City's certification of the EIR; **(2) file** any legal action challenging the City's approval of the Project's land use approvals, including the amendments to the West Side Facilities Master Plan; **(3) file** any legal action **challenging** the San Joaquin Local Agency Formation Commission's compliance with CEQA; **(4) file** any legal action challenging the San Joaquin Local Agency Formation Commission's approval of the annexation of the territory to the City of Lodi; **(5) qualify a** referendum petition to require an election concerning one or more of the Project's legislative approvals, or **(6) violate** the terms or the spirit of this Agreement in any other manner.

2) Challenge by Third Party:

a. The amendment to the Development Agreement called for in this Agreement will become **partially** ineffective **as** set **forth** below in the event that any other party: **(1) files** any legal action challenging the City's certification of the EIR; **(2) files** any **legal** action challenging the City's approval of the Project's land use approvals; **(3) files** **any** legal action challenging the San Joaquin Local Agency Formation Commission's compliance with CEQA; **(4) files** **a** legal action challenging the San Joaquin Local Agency Formation Commission's approval of the annexation of the territory to the City of Lodi; or, **(5) qualifies** a referendum *petition* to require an *election* concerning one or more of the Project's legislative approvals.

b. If an event triggers a partial invalidity as called for above, the

ratio of number of acres to be mitigated per Section 2.A. will be reduced by 50% and reimbursement of a portion of the fees paid to Citizens under this Agreement (see Paragraph 3C. below) **shall** be due from Citizens to Developer (within 60 days of its written notice to Citizens) in the amount of \$7,600. Moreover, Citizens' statute of limitations to file **an** action challenging the City's certification of the EIR and/or land use approvals will be tolled for thirty (30) days from the limitations period established by **CEQA**. City and Developer grant a second conditional **and** limited tolling of the statute of limitations to file an action challenging City's certification of the EIR. *This* conditional and limited tolling will only arise upon a legal challenge **by** a third party to LAFCO's determination on the EIR and/or annexation and Citizens' time to file an action shall extend for only thirty (30) days after the third party files its action.

c. In the event that dismissals with prejudice are filed with any applicable Court before answers are filed in the third party litigation then Citizens will dismiss any subsequent actions and the terms of this Agreement shall be fully restored.

3. Miscellaneous.

A. Ann Cerney, as the sole representative of Citizens, shall appear at all appropriate City Council hearings and express support for the approval of this Agreement, and non-opposition to the City Council's approval of the Project and certification of the EIR.

B. Citizens represents and warrants that Ann Cerney has authority to execute this Agreement on behalf of Citizens and ~~is~~ authorized to speak on behalf of the organization at all Lodi City Council and other public meetings.

C. Developer conditionally agrees to pay \$40,000 to Citizens to reimburse Citizens for attorney fees expended in the negotiation and executing of this Agreement and to reimburse members of the Citizens for extraordinary time and *effort* expended in this process. The distribution of the money shall be at the sole discretion of Citizens. The payment of these fees shall be due and payable thirty (30) days after the last day to take any of the actions described in Section 2.F.1).

D. If the public benefits included in this Agreement are not adopted by the City Council, Citizens' support for approval of this Agreement and non-opposition to the City Council's approval of the Projects and certification of the EIR **will** be withdrawn **and** its previously stated objections will be renewed. City **and** Developer agree not to assert an **exhaustion** of administrative remedies defense as to those issues specifically raised and exhausted at hearings regarding the Project if litigation ensues and this agreement becomes null and void, or partially invalid, under this Agreement.

4. Independent Effect: Effective Date of Agreement.

Only Section 3.A and 3.8 of the Agreement shall **be** immediately effective and binding upon Citizens and Developer. The remainder of this Agreement shall only become effective upon the City Council approval of the amendment to the draft Development Agreement that are described in Section 2. Notwithstanding any other provision herein to the contrary,

because of the nature of the mitigation measures set **Forth** herein (e.g., ratio of 1:1 acres for agriculture mitigation), *the parties* agree **that** this Agreement shall be effective as stand-alone resolutions of their disputes as to this Project.

5. Agreement Not to Sue or Circulate a Referendum Petition.

If *the amendment* to the Development Agreement called for in this Agreement are adopted by the City Council, Citizens agrees that neither it nor its individual members shall sue the City or the San Joaquin Local Agency Formation Commission over the sufficiency **of** the EIR or the land use/annexation decisions by these **public** agencies. Further neither Citizens nor its members shall encourage or give assistance **to** any others to challenge the Developer's Project either administratively or judicially. Moreover, neither Citizens, nor its members, will encourage, indirectly assist or actually circulate a petition to place a referendum on the ballot to force an election about the Project's legislative approvals.

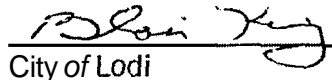
6. Counterparts.

This agreement may be executed in counterparts.



Frontier Land Companies

By: Tom Doucette, President



City of Lodi

By: Blair King, City Manager



Citizens for Open Government

By: Ann Cerney

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI
RESCINDING DEVELOPMENT AGREEMENT PERTAINING TO THE
DEVELOPMENT OF 257.76 ACRES LOCATED ON THE WEST SIDE OF
LOWER SACRAMENTO ROAD BETWEEN HIGHWAY 12-KETTLEMAN LANE
AND HARNEY LANE (SOUTHWEST GATEWAY) (DEVELOPMENT
AGREEMENT GM-05-001

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

SECTION 1. The Lodi City Council passed Ordinance No. 1788 approving a Development Agreement covering the following property:

Southwest Gateway: 257.76 acres located on the west side of Lower Sacramento Road between Highway 12-Kettleman Lane and Harney Lane, Assessors Parcel Numbers: 058-030-09, 058-030-03, 058-030-04, 058-030-05, 058-030-06, 058-040-01, 058-040-02, 058-040-04, 058-040-05, and 058-040-14; and

SECTION 2. Frontier Community Builders ("Frontiers"), the sole party to the above referenced Development Agreement requested that the agreement be rescinded by letter of May 16, 2012, a copy of which is attached hereto and incorporated by reference. However, Frontiers, Citizens for Open Government and the City entered into a settlement agreement dated November 15, 2006 ("Settlement Agreement"), the obligations of which were incorporated into the Development Agreement and into the CEQA approvals set forth in Resolution 2006-209. This ordinance shall not terminate any of the obligations set forth in the Settlement Agreement. Moreover, CEQA Resolution 2006-209 shall continue in full force and obligate Frontiers to comply with all of the obligations set forth in the Settlement Agreement.

SECTION 3. The City Council hereby finds that termination of the Development Agreement is in the best interest of the City to ensure that any construction is subject to the new impact mitigation fee program, and to eliminate conditions in the Development Agreement that could present barriers to housing construction in the current economy.

SECTION 4. The City Council hereby finds that the termination of the Development Agreement is consistent with the General Plan land use designation and the zoning for the proposed Development.

SECTION 5. The City Council hereby adopts Ordinance No. ____ rescinding the Development Agreement by and between the City of Lodi and Frontier Community Builders. However, the Settlement Agreement and CEQA Resolution 2006-209 shall continue in full force and obligate Frontiers to comply with all of the obligations set forth in the Settlement Agreement.

SECTION 6. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer for employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 7. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 8. This ordinance shall be published one time in the "Lodi News-Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall take effect 30 days from and after its passage and approval.

Approved this ____ of _____, 2012

JOANNE MOUNCE
Mayor

Attest:

RANDI JOHL
City Clerk

=====

State of California
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. ____ was introduced at a regular meeting of the City Council of the City of Lodi held August 15, 2012, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held _____, 2012, by the following vote:

AYES: COUNCIL MEMBERS -

NOES; COUNCIL MEMBERS -

ABSENT: COUNCIL MEMBERS -

ABSTAIN: COUNCIL MEMBERS -

I further certify that Ordinance No. ____ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

RANDI JOHL
City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER
City Attorney

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI
RESCINDING DEVELOPMENT AGREEMENT PERTAINING TO THE
DEVELOPMENT OF 151 ACRES LOCATED ON THE WEST SIDE OF
LOWER SACRAMENTO ROAD BETWEEN THE WOODBRIDGE
IRRIGATION DISTRICT CANAL AND VINE STREET (WESTSIDE
PROJECT) (DEVELOPMENT AGREEMENT GM-05-002)

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

SECTION 1. The Lodi City Council passed Ordinance No. 1794 approving a Development Agreement covering the following property:

Westside Project: 151 acres within the Westside Project area located on the west side of Lower Sacramento Road between the Woodbridge Irrigation District canal and Vine Street (Assessors Parcel Numbers 029-380-05, 027-040-01, 027-040-020, and 027-040-030).

SECTION 2. Frontier Community Builders ("Frontiers"), the sole party to the above referenced Development Agreement requested that the agreement be rescinded by letter of May 16, 2012, a copy of which is attached hereto and incorporated by reference. However, Frontiers Citizens for Open Government and the City entered into a settlement agreement dated December 4, 2007 ('Settlement Agreement'), the obligations of which were incorporated into the Development Agreement. This ordinance shall not terminate any of the obligations set forth in the Settlement Agreement. Moreover, the Settlement Agreement shall continue in full force and obligate Frontiers to comply with all of the obligations set forth in the Settlement Agreement.

SECTION 3. The City Council hereby finds that termination of the Development Agreement is in the best interest of the City to ensure that any construction is subject to the new impact mitigation fee program, and to eliminate conditions in the Development Agreement that could present barriers to housing construction in the current economy.

SECTION 4. The City Council hereby finds that the termination of the Development Agreement is consistent with the General Plan land use designation and the zoning for the proposed Development.

SECTION 5. The City Council hereby adopts Ordinance No. ____ rescinding the Development Agreement by and between the City of Lodi and Frontier Community Builders. However, the Settlement Agreement shall continue in full force and obligate Frontiers to comply with all of the obligations set forth in the Settlement Agreement.

SECTION 6. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City

or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 7. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 8. This ordinance shall be published one time in the "Lodi News-Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall take effect 30 days from and after its passage and approval.

Approved this ____ of _____, 2012

JOANNE MOUNCE
Mayor

Attest:

RANDI JOHL
City Clerk

=====

State of California
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. ____ was introduced at a regular meeting of the City Council of the City of Lodi held August 15, 2012, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held _____, 2012, by the following vote:

AYES: COUNCIL MEMBERS -

NOES: COUNCIL MEMBERS -

ABSENT: COUNCIL MEMBERS -

ABSTAIN: COUNCIL MEMBERS -

I further certify that Ordinance No. ____ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

RANDI JOHL
City Clerk

Approved as to Form:
D. STEPHEN SCHWABAUER
City Attorney



G-2

tel: 916.455.7300 • fax: 916.244.7300
1010 F Street, Suite 100 • Sacramento, CA 95814

August 15, 2012

SENT VIA EMAIL: sschwabauer@lodi.gov
mhakeem@hemlaw.com

D. Stephen Schwabauer
City Attorney
City of Lodi
P.O. Box 3006
Lodi, CA 95241

Michael Hakeem
Counsel for Frontiers Land Company
3414 Brookside Road, Suite 100
Stockton, CA 95219

**RE: Rescission of Southwest Gateway and Westside Development
Agreements**

Dear Steve and Mike:

This office represents Citizens for Open Government (“COG”) and *Ann* Cerney with respect to the Southwest Gateway and Westside Development Projects (a.k.a. Lodi Annexation Project). In 2006, COG entered into two separate Settlement Agreements with Frontier Land Companies and the City to ensure that agricultural land conversion impacts would be mitigated at a minimum 1:1 ratio and that certain home building, energy, conservation, and other environmental design features would be included in the Lodi Annexation Project. (November 15, 2006 and December 4, 2006 Settlement Agreements, attached as Exhibit A and Exhibit B, section 11.A-G.)

I have reviewed the draft rescission resolutions provided by the City Attorney’s office and am satisfied that the resolutions make clear that obligations in the Settlement Agreements will continue after rescission of the Development Agreements, consistent with the intent of all parties. I cannot be in attendance this evening to participate in the Council proceedings, but Ms. Cerney will be available should there be any questions pertaining to COG and/or the Settlement Agreements.

I would like to also take this opportunity to remind both the City and Frontier Land Companies that the Agreements contain notification provisions regarding selection of agricultural land mitigation receiving sites. (See Settlement Agreements, section

Mssrs. Schwabauer and Hakeem
August 15, 2012
Page 2 of 2

II.A.5.) These notifications should be provided to my office at the address listed above, or via email: osha@sernlawyers.com.

Thank you for your cooperation in ensuring the work of COG to improve the Lodi Annexation Project will be carried out **as** the Project is eventually developed. Please feel free to contact me anytime with any questions or concerns.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By: 
Osha R. Meserve

cc: Ann Cerney, Citizens for Open Government, acerney@inreach.com

EXHIBIT A

AGREEMENT TO AMEND
SOUTHWEST GATEWAY
DEVELOPMENT AGREEMENT
 AND REFRAIN FROM CHALLENGING LAND USE PROJECT

THIS AGREEMENT is made this 15th day of November 2006 by and between the City of Lodi (City), a California General Law city, represented by the City Manager and City Attorney with the limited authority as described in Section 1.A; Citizens for Open Government, an unincorporated association (Citizens); and Frontiers Community Builders (Developer) a dba of Frontier Land Companies, a California Corporation. The Parties agree as follows:

1. Recitals.

A. The Parties to the Agreement.

The City of Lodi ("City") is a General Law city governed by a five-member city council. For all purposes herein and during all times during the negotiation of this Agreement the City Manager **and City Attorney have *represented the City***. However in this Agreement and at all times during the negotiation of the Agreement the City Manager and/or City Attorney have lacked the capacity or legal authority to bind the City of Lodi and/or the City Council. The parties understand that throughout the negotiation and in executing this Agreement the City Manager and City Attorney can only recommend to the City Council that it take certain actions. All authority and discretion remains with the City Council over whether the City Council will approve or disapprove of this Agreement. The City Council is scheduled to bear the Project at a duly noticed public hearing scheduled for November 15, 2006.

Citizens is an unincorporated **association** that **has commented** on the development proposed by Developer. The "Project" referred to herein is as defined in the Development Agreement for the "FCB Southwest Gateway Project" with all Project Approvals described therein. Citizens desire to have certain mitigation measures and clarifications added to the Development Agreement negotiated between City and Developer that in the opinion of Citizens will further the interest of the City and the interest of the public. If these amendments are added to the draft Development Agreement in the form of this Agreement, which shall be an exhibit to the Development Agreements, then Citizens **will** support the Project, **will** not make negative comments about the Project's EIR or the Project at any City Council or other public hearings, and **will** not subsequently challenge the certification of the EIR or the Project Approvals, directly or indirectly. Ann Cerney shall be the sole spokesperson **for** Citizens and make these statements at City Council hearing.

Developer, a private entity, is the applicant for the Development Agreements and Project Approvals described therein. The term "Developer" includes all related entities of Developer and their successors in interest.

B. The parties agree that the Development Agreements contain commitments for major infrastructure and amenities that will result in public benefits for the City.

C. Although Citizens are not fully satisfied with all aspects of the Project and EIR, it has balanced the benefits of the Project, including the changes to the draft Development Agreements as set forth in this Agreement, against the adverse *effects* of the Projects and has concluded that the Projects, separately or combined, are substantially more beneficial to the City than detrimental.

2. Modification of Development Agreement.

The parties agree that the draft Development Agreement for the Project, scheduled to be considered by the City Council at the public hearing on November 15, 2006, is to be hereby amended by and through this Agreement, which shall be attached to the Development Agreement as Exhibit "K".

A. Mitigation For Agricultural Conversion Impacts of Project

(1) Developer shall obtain permanent easements to be held by the City or other qualified entity (e.g., Central Valley Farmland Trust) limiting the use of San Joaquin County real property to agricultural uses and related activities as are permitted from time to time under the agricultural zoning laws of the County ("Agricultural Conservation Easements"). In providing mitigation for impacts to agricultural land, Developer shall adhere to the terms of the final adopted San Joaquin County Agricultural Mitigation Ordinance, now under consideration by the San Joaquin County Board of Supervisors. (See November 14, 2006 draft Ordinance.)

(2) At a minimum, and notwithstanding the terms of the final, adopted County Ordinance, the Agricultural Conservation Easements shall be recorded on a 1:1 acre (conserved:developed) ratio against an aggregate **total of** up to 240 acres, **more** or less, contained within FCB Southwest Gateway Project, involving one or more parcels of land - though not necessarily contiguous - **with** each mitigation acre located within San Joaquin County and zoned for agricultural uses ("Protected Properties"). If mitigation lands are located in the Primary Zone of the San Joaquin Delta that lies within the County, the mitigation ratio shall be on a 2:1 acre (conserved:developed) basis. However, if prior to the Developer's compliance with this agricultural mitigation requirement, the San Joaquin **Board** of Supervisors excludes land within certain areas of *the County* (e.g., the Primary Zone of the Delta) from being used for agricultural mitigation purposes, the parties agree that those lands would be excluded from being used for mitigation purposes under this Agreement.

(3) At a **minimum**, and notwithstanding the terms of the final, adopted County Ordinance, the Agricultural Conservation Easements may only apply to Protected Properties that are not encumbered by (a) any other perpetual open space conservation easement or

deed restriction or (b) any other perpetual agriculture mitigation easement or deed restriction. The cost of obtaining the Agricultural Conservation Easements shall rest with the Developer. The Protected Properties must be subject to permanent restrictions on use to ensure the availability of agricultural production capacity by limiting non-agricultural development that is inconsistent with agriculture uses and related activities. In accordance with the County's November 14, 2006, draft Mitigation Ordinance section 9-1080.3, subdivision (e)(1), the Developer shall pay an administrative fee to cover the costs of administering, monitoring and enforcing the farmland conservation easement in an amount to be determined by the *qualified entity that will hold the conservation easement*. If the City holds the Agricultural Conservation Easements, the City will monitor the Protected Properties subject to the easements biannually through its Planning Commission to ensure compliance with the requirements of this provision. If the City is selected to hold the Agricultural Conservation Easements, Developer will pay City \$5,000 to compensate the City for monitoring cost/contingencies in connection with the Agricultural Conservation Easements for the Southwest Gateway Project.

(4) The Agricultural Conservation Easements shall be recorded in the applicable ratio(s) against a minimum of each acre to be developed (or more) within any phased Final Subdivision Map of the Project prior to the date the first residential building permit is issued to Developer for any such phase thereof.

(5) City shall notify Citizens of which site(s) are selected to meet the requirements of this provision 30 days prior to the recordation of any Agricultural Conservation Easements pursuant to this Agreement. If both Citizens and the City agree, the mitigation ratio applicable to mitigation lands outside of the Delta Primary Zone may be reduced if the Developer proposes to obtain conservation easements that, in the judgment of both Citizens and the City, have a greater mitigation value than lands that could otherwise be used as mitigation for agricultural impacts of the Projects under this provision.

B. Home Building, Energy and Conservation Features within the Project

1) Developer shall become a California Green Builder prior to the construction of the homes within the Projects. The California Green Builder program requires that all homes are at least 15% more energy efficient than currently mandated by Title 24 in California and meet guidelines for energy efficiency set by the US Environmental Protection Agency. The homes within the Projects may contain a variety of energy efficient features and alternative energy features such as high efficient insulation, high performance windows, high efficient heating and cooling equipment, cool roofing, radiant barriers, awnings, overhangs, day lighting and qualified lighting.

2) Developer's status as a California Green Builder requires Developer to implement water conservation features that save 20,000 gallons per home per year. Developer shall provide front yard landscaping using weather based irrigation controllers and drip irrigation and may utilize other water conservation features such as high efficiency fixtures and efficient plumbing technologies, products and materials. Developer also agrees to use weather based irrigation controllers in front yards, parks and common areas.

3) Developer shall make available solar power features and electrical car charging stations or outlets that homeowners within the Projects may elect to purchase as part of that homeowner's option package.

4) Developer agrees that at least 50% of the construction site waste shall be recycled or otherwise diverted from landfill disposal.

5) Developer shall use only EPA approved natural gas fireplaces, fireplace inserts, woodstoves or pellet stoves when such fireplaces are installed. Developer will comply with all federal, state and local laws and regulations pertaining to the installation of wood burning fireplaces.

6) Developer will encourage landscape maintenance companies to use electric-powered equipment.

7) Shade trees will be planted where appropriate throughout the Project and located to shade paved areas and to protect dwellings from energy consuming environmental conditions.

8) Developer agrees to comply with the California Green Builder program that applies to high density residential units. Currently a pilot program exists that is substantially similar to the low density program, with the exception of the 20,000 gallon per home per year in water conservation.

C. New Urbanism neighborhood design.

Developer believes that the Project's current land use plans promote the principles of New Urbanism that include neighborhoods that are walk-able, interconnected, that include pedestrian friendly streetscapes; bicycle friendly design elements; well integrated, highly visible, and publicly accessible open spaces. Developer is also committed to designing the specific components of the Projects to include housing and structural forms that are visually interesting, well modulated, constructed of high quality materials, proportionate to their surroundings, and a range of housing types, sizes and affordability.

D. Pedestrian Transit and Bicycle Infrastructure: Developer agrees to implement the following measures:

1) Provide pedestrian enhancing infrastructure that includes: sidewalks and pedestrian paths, direct pedestrian connections, street trees to shade sidewalks, pedestrian safety designs/infrastructure, street lighting and/or pedestrian signalization and signage, and

2) Provide bicycle-enhancing infrastructure that includes: bikeways/paths connecting to a bikeway system as well as secure bike parking.

E. Lodi Eastside: This provision is not applicable to the Southwest Gateway Agreement.

F. **Water Supply:** Additional entitlements for urban development within the Project area (i.e., subdivision maps, parcel maps, building permits, etc.) shall not be granted for any dwellings within the Project area after total water use exceeds the projected safe groundwater yield of the Project area until additional water sources (e.g., W.I.D. groundwater recharge or water treatment or otherwise) are available. According to the Westside-Southwest Gateway Project Water Supply Assessment (July 2006) ("**WSA**"), a total of approximately 347 *acre* feet per year for Southwest Gateway will be available for the Project upon its annexation while the total projected water demand will likely be in excess of that amount before full build-out occurs. The purpose of this provision, then, *is* to ensure that water use by the Project does not exceed the projected increase in safe groundwater yield attributable to annexation of the Project area into the City until additional water sources (e.g., W.I.D. groundwater recharge or water treatment or otherwise) are available. (See WSA, Figure 5-4.)

G. **Agricultural Conflicts:** Developers shall strive to phase development in a manner that will reduce land use conflicts with lands currently in agricultural use to the west of the Project. To the extent feasible, Developer will generally develop the Project in an east to west *direction*.

H. **Challenges:**

1) **No Challenge by Citizens/Cerney:** This Agreement will not become effective in the event that Citizens **and/or Ann Cerney:** (1) *file* any **legal** action challenging the City's certification of the EIR; (2) file any legal action challenging the City's approval of the Project's land use approvals, including the amendments to the West Side Facilities Master Plan; (3) file any legal *action* challenging the San Joaquin Local Agency Formation Commission's compliance with CEQA; (4) file any legal action challenging the San Joaquin Local Agency Formation Commission's approval of the annexation of the territory to the City **of Lodi**; (5) qualify a referendum petition to require an election concerning one or more of the Project's legislative approvals, or (6) violate the terms or the spirit of this Agreement in any other manner.

2) **Challenge by Third Party:**

a. The amendment to the Development Agreement called for in this Agreement will become partially ineffective **as** set forth below in the event that any other **party:** (1) *files* any legal action challenging the City's certification of the **EIR**; (2) files any legal action challenging the City's approval of the Project's land use approvals; (3) files any legal action challenging the San Joaquin Local Agency Formation Commission's compliance with CEQA; (4) files a legal action challenging the San Joaquin Local Agency Formation Commission's approval of the annexation of the territory to the City of Lodi; or, (5) *qualifies a referendum petition* to require **an election** concerning one or more of the Project's legislative approvals.

b. If an event triggers a partial invalidity as called for above, the

ratio of number of acres to be mitigated per Section 2.A. will be reduced by 50% and reimbursement of a portion of the fees paid to Citizens under this Agreement (see Paragraph 3C. below) shall be due from Citizens to Developer (within 60 days of its written notice to Citizens) in the amount of \$7,600. Moreover, Citizens' statute of limitations to file an action challenging the City's certification of the EIR and/or land use approvals will be tolled for thirty (30) days from the limitations period established by CEQA. City and Developer grant a second conditional **and** limited tolling of the statute of limitations to file an action challenging City's certification of the EIR. This conditional and limited tolling will only arise upon a legal challenge by a third party to LAFCO's determination on the EIR and/or annexation and Citizens' time to file an action shall extend for only thirty (30) days after the third party files its action.

c. In the event that dismissals with prejudice are filed with any applicable Court before answers are filed in the third party litigation then Citizens will dismiss any subsequent actions and the terms of this Agreement shall be fully restored.

3. Miscellaneous.

A. Ann Cerney, as *the* sole representative of Citizens, shall appear at all appropriate City Council hearings and express support for the approval of this Agreement, and non-opposition to the City Council's approval of the Project and certification of the EIR.

6. Citizens represents and warrants that Ann Cerney has authority to execute this Agreement on behalf of Citizens and is authorized to speak on behalf of the organization at all Lodi City Council and other public meetings.

C. Developer conditionally agrees to pay \$40,000 to Citizens to reimburse Citizens for attorney fees expended in the negotiation and executing of this Agreement and to reimburse members of the Citizens for extraordinary time and effort expended in this process. The distribution of the money shall be at the sole discretion of Citizens. The payment of these fees shall be due and payable thirty (30) days after the last day to take any of the actions described in Section 2.F.1).

D. If the public benefits included in this Agreement are not **adopted** by the City Council, Citizens' support for approval of this Agreement and non-opposition to the City Council's approval of the Projects and certification of the EIR will be withdrawn and its previously stated objections **will** be renewed. City and Developer agree not to assert an exhaustion of administrative remedies defense as to those issues specifically raised and exhausted at hearings regarding the Project if litigation ensues and this agreement becomes null and void, or partially invalid, under this Agreement.

4. Independent Effect: **Effective** Date of Agreement.

Only Section 3.A and 3.6 of the Agreement **shall be immediately** effective and binding upon Citizens and Developer. The remainder of this Agreement shall only become effective upon the City Council approval of the amendment to the draft Development Agreement that are described in Section 2. Notwithstanding any other provision herein to the contrary,


because of the nature of the mitigation measures set forth herein (e.g., ratio of 1:1 acres for agriculture mitigation), the parties **agree** that this Agreement shall be effective as stand-alone resolutions of their disputes as to this Project.

5. Agreement Not to Sue or Circulate a Referendum Petition.

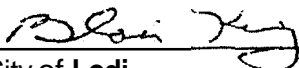
If the amendment to the Development Agreement called for in this Agreement are adopted by the City Council, Citizens agrees that neither it nor its individual members shall sue the City or the San Joaquin Local Agency Formation Commission over the sufficiency of the EIR or the land use/annexation decisions by these public agencies. Further neither Citizens nor its members shall encourage or give assistance to any others to challenge the Developer's Project either administratively or judicially. Moreover, neither Citizens, nor its members, will encourage, indirectly assist or actually circulate a petition to place a referendum on the ballot to force an election about the Project's legislative approvals.

6. Counterparts.

This agreement may be executed in counterparts.



Frontier Land Companies
By: Tom Doucette, President



City of Lodi
By: Blair King, City Manager



Citizens for Open Government
By: Ann Cerney

EXHIBIT B

**AGREEMENT TO AMEND
WESTSIDE
DEVELOPMENT AGREEMENT
AND REFRAIN FROM CHALLENGING LAND USE PROJECT**

THIS AGREEMENT is made this 4th day of December, 2007 by and between the City of Lodi (City), a California General law city, represented by the City Manager and City Attorney with the limited authority as described in Section 1.A; Citizens for Open Government, an unincorporated association (Citizens); and Frontiers Community Builders (Developer) a dba of Frontier Land Companies, a California Corporation. The Parties agree as follows:

Recitals.

4. The Parties to the Agreement.

The City of Lodi ("City") is a General Law city governed by a five-member city council. For all purposes herein and during all times during the negotiation of this Agreement the City Manager and City Attorney have represented the City. However in this Agreement and at all times during the negotiation of the Agreement the City Manager and/or City Attorney have lacked the capacity or legal authority to bind the City of Lodi and/or the City Council. The parties understand that throughout the negotiation and in executing this Agreement the City Manager and City Attorney can only recommend to the City Council that it take certain actions. All authority and discretion remains with the City Council over whether the City Council will approve or disapprove of this Agreement. The City Council is scheduled to hear the Project at a duly noticed public hearing scheduled after February 1, 2007.

Citizens is an unincorporated association that has commented on the development proposed by Developer. The "Project" referred to herein is as defined in the Development Agreement for the "FCB Westside Project" with all Project Approvals described therein. Citizens desire to have certain mitigation measures and clarifications added to the Development Agreement negotiated between City and Developer that in the opinion of Citizens will further the interest of the City and the interest of the public. If these amendments are added to the draft Development Agreement in the form of this Agreement, which shall be an exhibit to the Development Agreements, then Citizens will support the Project will not make negative comments about the Project's EIR or the Project at any City Council or other public hearings, and will not subsequently challenge the certification of The EIR or the Project Approvals, directly or indirectly. Ann Cerney shall be the sole spokesperson for Citizens and make these statements at the City Council hearing.

Developer, a private entity, is the applicant for the Development Agreements and Project Approvals described therein. The term "Developer" includes all related entities of Developer and their successors in interest.

B. The parties agree that the Development Agreements contain commitments for major infrastructure and amenities that will result in public benefits for the City.

C. Although Citizens are not fully satisfied with all aspects of the Project and EIR, it has balanced the benefits of the Project, including the changes to the draft Development Agreements as set forth in this Agreement, against the adverse effects of the Projects and has concluded that the Projects, separately or combined, are substantially more beneficial to the City than detrimental.

2. Modification of Development Agreement

The parties agree that the draft Development Agreement for the Project, scheduled to be considered by the City Council at the public hearing after January 1, 2007 is to be hereby amended by and through this Agreement, which shall be attached to the Development Agreement as Exhibit "___".

A. Mitigation For Agricultural Conversion Impacts of Project

1. Developer shall obtain permanent easements to be held by the City or other qualified entity (e.g., Central Valley Farmland Trust) limiting the use of San Joaquin County real property to agricultural uses and related activities as are permitted from time to time under the agricultural zoning laws of the County ("Agricultural Conservation Easements"). In providing mitigation for impacts to agricultural land, Developer shall adhere to the terms of the final adopted San Joaquin County Agricultural Mitigation Ordinance, now under consideration by the San Joaquin County Board of Supervisors. (See November 14, 2006 draft Ordinance.)

2. At a minimum, and notwithstanding the terms of the final, adopted County Ordinance, the Agricultural Conservation Easements shall be recorded on a 1:1 acre (conserved:developed) ratio against an aggregate total of up to 152 acres, more or less, contained within FCB Westside Project involving one or more parcels of land - though not necessarily contiguous - with each mitigation acre located within San Joaquin County and zoned for agricultural uses ("Protected Properties"). If mitigation lands are located in the Primary Zone of the San Joaquin Delta that lies within the County, the mitigation ratio shall be on a 2:1 acre (conserved:developed) basis. However, if prior to the Developer's compliance with this agricultural mitigation requirement, the San Joaquin Board of Supervisors excludes land within certain areas of the County (e.g., the Primary Zone of the Delta) from being used for agricultural mitigation purposes, the parties agree that those lands would be excluded from being used for mitigation purposes under this Agreement.

At a minimum, and notwithstanding the terms of the final, adopted County Ordinance, the Agricultural Conservation Easements may only apply to Protected Properties that are not encumbered by (a) any other perpetual open space conservation easement or

deed restriction or (b) any other perpetual agriculture mitigation easement or deed, restriction. The cost of obtaining the Agricultural Conservation Easements shall rest with the Developer. The Protected Properties must be subject to permanent restrictions on use to ensure the availability of agricultural production capacity by limiting non-agricultural development that is inconsistent with agriculture uses and related activities. In accordance with the County's November 14, 2006, draft Mitigation Ordinance section 9-1080.3, subdivision (e)(1), the Developer shall pay an administrative fee to cover the costs of administering, monitoring and enforcing the farmland conservation easement in an amount to be determined by the qualified entity that will hold the conservation easement. If the City holds the Agricultural Conservation Easements, the City will monitor the Protected Properties subject to the easements biannually through its Planning Commission to ensure compliance with the requirements of this provision. If the City is selected to hold the Agricultural Conservation Easements, Developer will pay City \$5,000 to compensate the City for monitoring cost/contingencies in connection with the Agricultural Conservation Easements for the Westside Project.

(4) The Agricultural Conservation Easements shall be recorded in the applicable ratio(s) against a minimum of each acre to be developed (or more) within any phased Final Subdivision Map of the Project prior to the date the first residential building permit is issued to Developer for any such phase thereof.

(5) City shall notify Citizens of which site(s) are selected to meet the requirements of this provision 30 days prior to the recordation of any Agricultural Conservation Easements pursuant to this Agreement. If both Citizens and the City agree, the mitigation ratio applicable to mitigation lands outside of the Delta Primary Zone may be reduced if the Developer proposes to obtain conservation easements that, in the judgment of both Citizens and the City, have a greater mitigation value than lands that could otherwise be used as mitigation for agricultural impacts of the Projects under this provision.

B. Home Building, Energy and Conservation Features within the Project

3. Developer shall become a California Green Builder prior to the construction of the homes within the Projects. The California Green Builder program requires that all homes are at least 15% more energy efficient than currently mandated by Title 24 in California and meet guidelines for energy efficiency set by the US Environmental Protection Agency. The homes within the Projects may contain a variety of energy efficient features and alternative energy features such as high efficient insulation, high performance windows, high efficient heating and cooling equipment, cool roofing radiant barriers, awnings, overhangs day lighting and qualified lighting.

2. Developer's status as a California Green Builder requires Developer to implement water conservation features that saves 20,000 gallons per home per year. Developer shall provide front yard landscaping using weather based Irrigation controllers and drip irrigation and may utilize other water conservation features such as high efficiency fixtures and efficient plumbing technologies, products and materials. Developer also agrees to use weather based irrigation controllers in front yards, parks and common areas.

3) Developer shall make available solar power features and electrical car charging stations or outlets that homeowners within the Projects may elect to purchase as part of that homeowner's option package.

4) Developer agrees that at least 50% of the construction site waste shall be recycled or otherwise diverted from landfill disposal.

5) Developer shall use only EPA approved natural gas fireplaces, fireplace inserts, woodstoves or pellet stoves when such fireplaces are installed. Developer will comply with all federal, state and local laws and regulations pertaining to the installation of wood burning fireplaces,

6) Developer will encourage landscape maintenance companies to use electric-powered equipment.

7) Shade trees will be planted where appropriate throughout the Project and located to shade paved areas and to protect dwellings from energy consuming environmental conditions.

8) Developer agrees to comply with the California Green Builder program that applies to high density residential units. Currently a pilot program exists that is substantially similar to the low density program, with the exception of the 20,000 gallon per home per year in water conservation.

C. New Urbanism neighborhood design.

Developer believes that the Project's current land use plans promote the principles of New Urbanism that include neighborhoods that are walk-able, interconnected, that include pedestrian friendly streetscapes; bicycle friendly design elements; well integrated, highly visible, and publicly accessible open spaces. Developer is also committed to designing the specific components of the Projects to include housing and structural forms that are visually interesting, well modulated, constructed of high quality materials, proportionate to their surroundings, and a range of housing types, sizes and affordability.

D. Pedestrian Transit and Bicycle Infrastructure: Developer agrees to implement the following measures:

1) Provide pedestrian enhancing infrastructure that includes: sidewalks and pedestrian paths, direct pedestrian connections, street trees to shade sidewalks, pedestrian safety designs/infrastructure, street lighting and/or pedestrian signalization and signage, and

2) Provide bicycle-enhancing infrastructure that includes; bikeways/paths connecting to a bikeway system as well as secure bike parking.

E. Lodi Eastside: The Project's requirement for investment in Lodi's eastside community as set forth in the FCB Westside Development Agreement is hereby amended to require that any units which are selected by the *Developer to be rehabilitated* or replaced and which are currently at affordable rents for persons or families of low income shall remain affordable for Persons of low income,

F. Water Supply: Additional entitlements for urban development within the Project area (i.e., subdivision maps, parcel maps, building permits, etc.) shall not be granted for any dwellings within the Project area after total water use exceeds the projected safe groundwater yield of the Project area until additional water sources (e.g., W.I.D. groundwater recharge or water treatment or otherwise) are available. According to the Westside-Southwest Gateway Project Water Supply Assessment (July 2006) ("WSA"), a total of approximately 257 acre feet per year will be available for the Westside Project upon its annexation while the total projected water demand will likely be in excess of that amount before full build-out occurs. The purpose of this provision, then, is to ensure that water use by the Project does not exceed the projected increase in safe groundwater yield attributable to annexation of the Project area into the City until additional water sources (e.g., W.I.D. groundwater recharge or water treatment or otherwise) are available. (See WSA, Figure 5-4.)

G. Agricultural Conflicts: Developer shall strive to phase development in a manner that will reduce land use conflicts with lands currently in agricultural use to the west of the Project. To the extent feasible, Developer will generally develop the Project in an east to west direction.

H. Challenges:

1) No Challenge by Citizens/Cerney: This Agreement will not become effective in the event that Citizens and/or Ann Cerney: (1) file any legal action challenging the city's certification of the EIR; (2) file any legal action challenging the City's approval of the Project's land use approvals, including the amendments to the West Side Facilities Master Plan; (3) file any legal action challenging the San Joaquin Local Agency Formation Commission's compliance with CEQA; (4) file any legal action challenging the San Joaquin Local Agency Formation Commission's approval of the annexation of the territory to the City of Lodi; (5) qualify a referendum petition to require an election concerning one or more of the Project's legislative approvals, or (6) violate the terms or the spirit of this Agreement in any other manner.

2) Challenge by Third Party:

a. The amendment to the Development Agreement called for in this Agreement will become partially ineffective as set forth below in the event that any other party: (1) files any legal action challenging the City's certification of the EIR; (2) files any legal action challenging the City's approval of the Project's land use approvals; (3) files any legal action challenging the San Joaquin Local Agency Formation Commission's compliance with CEQA; (4) files a legal action challenging the San Joaquin Local Agency Formation Commission's approval of the annexation of the territory to the City of Lodi; or, (5) qualifies a

referendum petition to require an election concerning one or more of the Project's legislative approvals.

b. If an event triggers a partial invalidity as called for above, the ratio of number of acres to be mitigated per Section 22A will be reduced by 50% and reimbursement of a portion of the fees paid to Citizens under the Southwest Gateway Development Agreement dated November 15, 2006 (see Paragraph 3C. therein) shall be due from Citizens to Developer (within 60 days of its written notice to Citizens) in the amount of \$7,600. Moreover, Citizens' statute of limitations to file an action challenging the City's certification of the EIR and/or land use approvals will be tolled for thirty (30) days from the limitations period established by CEQA. City and Developer grant a second conditional and limited tolling of the statute of limitations to file an action challenging City's certification of the EIR. This conditional and limited tolling will only arise upon a legal challenge by a third party to LAFCO's determination on the EIR and/or annexation and Citizens' time to file an action shall extend for only thirty (30) days after the third party files its action.

c. In the event that dismissals with prejudice are filed with any applicable Court before answers are filed in the third party litigation then Citizens will dismiss any subsequent actions and the terms of this Agreement shall be fully restored.

3. Miscellaneous.

A. Ann Cerney, as the sole representative of Citizens, shall appear at all appropriate City Council hearings and express support for the approval of this Agreement, and non-opposition to the City Council's approval of the Project and certification of the EIR.

B. Citizens represents and warrants that Ann Cerney has authority to execute this Agreement on behalf of Citizens and is authorized to speak on behalf of the organization at all Lodi City Council and other public meetings.

C. Developer has previously agreed to conditionally pay \$40,000 to Citizens as reimbursement to Citizens for attorney fees expended in the negotiation and executing of an amendment to the Southwest Gateway Development Agreement along the same lines as set forth above, therefore, the parties further agree that Developer owes no additional amounts to reimburse members of the Citizens for any time and effort expended in the process of amending the Westside Development Agreement.

D. If the public benefits included in this Agreement are not adopted by the City Council, Citizens' support for approval of this Agreement and non-opposition to the City Council's approval of the Project and certification of the EIR will be withdrawn and its previously stated objections will be renewed. City and Developer agree not to assert an exhaustion of administrative remedies defense as to those issues specifically raised and exhausted at hearings regarding the Project if litigation ensues and this agreement becomes null and void, or partially invalid, under this Agreement.

4. Independent Effect; Effective Date of Agreement.

This Agreement shall be immediately effective and binding upon Citizens and Developer, but subject to termination by condition subsequent should the Lodi City Council not ratify this Agreement at the time of its public hearing on the FCB Westlake Project scheduled after February 1, 2007. The remainder of this Agreement shall only become effective upon the City Council approval of the amendment to the draft Development Agreement that are described in Section 2. Notwithstanding any other provision herein to the contrary, because of the nature of the mitigation measures set forth herein (e.g., ratio of 1:1 acres for agriculture mitigation), the parties agree that this Agreement shall be effective as stand-alone resolutions of their disputes as to this Project.

5. Agreement Not to Sue or Circulate a Referendum Petition.


If the amendment to the Development Agreement called for in this Agreement are adopted by the City Council, Citizens agrees that neither it nor its individual members shall sue the City or the San Joaquin Local Agency Formation Commission over the sufficiency of the EIR or the land use/annexation decisions by these public agencies, further neither Citizens nor its members shall encourage or give assistance to any others to challenge the Developer's Project either administratively or judicially. Moreover, neither Citizens, nor its members, will encourage, indirectly assist or actually circulate a petition to place a referendum on the ballot to force an election about the Project's legislative approvals.

6. Counterparts.

This agreement may be executed in counterparts.


Frontier Land Companies
By: Tom Doucette, President


City of Lodi
By: Blair King, City Manager


Citizens for Open Government
By: Ann Cerney



DECLARATION OF POSTING

CONTINUED PUBLIC HEARING TO CONSIDER TERMINATION OF SOUTHWEST GATEWAY AND WESTSIDE PROJECT DEVELOPMENT AGREEMENTS WITH FRONTIER COMMUNITY BUILDERS, INC.

On Thursday, August 2, 2012, in the City of Lodi, San Joaquin County, California, a Continued Public Hearing Notice to consider termination of Southwest Gateway and Westside Project Development Agreements with Frontier Community Builders, Inc. (attached and marked as Exhibit A) was posted at the following locations:

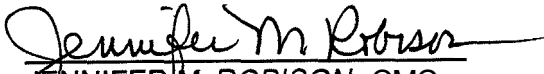
Lodi Public Library
Lodi City Clerk's Office
Lodi City Hall Lobby
Lodi Carnegie Forum

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 2, 2012, at Lodi, California.

ORDERED BY:

RANDI JOHL
CITY CLERK


JENNIFER M. ROBISON, CMC
ASSISTANT CITY CLERK

MARIA BECERRA
ADMINISTRATIVE CLERK



CITY OF LODI

Carnegie Forum
305 West Pine Street, Lodi

Date: August 15, 2012

Time: 7:00 p.m.

For information regarding this notice please contact:

Randi Johl

City Clerk

Telephone: (209) 333-6702

EXHIBIT A

NOTICE OF CONTINUED PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **Wednesday, August 15, 2012**, at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a public hearing at the Carnegie Forum, 305 West Pine Street, Lodi, to consider the following item:

- a) **Termination of Southwest Gateway and Westside Project Development Agreements with Frontier Community Builders, Inc.**

Information regarding this item may be obtained in the City Manager's Office, 221 West Pine Street, Lodi, (209) 333-6700. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk, City Hall, 221 West Pine Street, 2nd Floor, Lodi, 95240, at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the close of the public hearing.

By Order of the Lodi City Council:

Randi Johl
City Clerk

Dated: August 1, 2012

Approved as to form:

D. Stephen Schwabauer
City Attorney



***Please immediately confirm receipt
of this fax by calling 333-6702***

CITY OF LODI
P. O. BOX 3006
LODI, CALIFORNIA 95241-1910

ADVERTISING INSTRUCTIONS

SUBJECT: PUBLIC HEARING TO CONSIDER TERMINATION OF SOUTHWEST
GATEWAY AND WESTSIDE PROJECT DEVELOPMENT AGREEMENTS
WITH FRONTIER COMMUNITY BUILDERS, INC.

PUBLISH DATE: SATURDAY, JUNE 30, 2012

LEGAL AD

TEAR SHEETS WANTED: Three (3) please

SEND AFFIDAVIT AND BILL TO:
LNS ACCT. #0510052

RANDI JOHL, CITY CLERK
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

DATED: TUESDAY, JUNE 26, 2012

ORDERED BY:

RANDI JOHL
CITY CLERK


JENNIFER M. ROBISON, CMC
ASSISTANT CITY CLERK.

MARIA BECERRA
ADMINISTRATIVE CLERK

Verify Appearance of this Legal in the Newspaper – Copy to File

| | |
|---|--|
| Faxed to the Sentinel at 369-1084 at _____ (time) on _____ (date) _____ (pages) | |
| LNS _____ | Phoned to confirm receipt of all pages at _____ (time) _____ JMP _____ MB _____ (initials) |



DECLARATION OF POSTING

PUBLIC HEARING TO CONSIDER TERMINATION OF SOUTHWEST GATEWAY AND WESTSIDE PROJECT DEVELOPMENT AGREEMENTS WITH FRONTIER COMMUNITY BUILDERS, INC.

On Tuesday, June 26, 2012, in the City of Lodi, San Joaquin County, California, a Public Hearing Notice to consider termination of Southwest Gateway and Westside Project Development Agreements with Frontier Community Builders, Inc. (attached and marked as Exhibit A) was posted at the following locations:

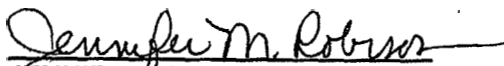
Lodi Public Library
Lodi City Clerk's Office
Lodi City Hall Lobby
Lodi Carnegie Forum

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 26, 2012, at Lodi, California.

ORDERED BY:

RANDI JOHL
CITY CLERK


JENNIFER M. ROBISON, CMC
ASSISTANT CITY CLERK

MARIA BECERRA
ADMINISTRATIVE CLERK



DECLARATION OF MAILING

PUBLIC HEARING TO CONSIDER TERMINATION OF SOUTHWEST GATEWAY AND WESTSIDE PROJECT DEVELOPMENT AGREEMENTS WITH FRONTIER COMMUNITY BUILDERS, INC.

On _____, _____, the City of Lodi, San Joaquin County, California, I deposited in the United States mail envelopes with first-class postage prepaid thereon containing a Notice of Public Hearing to consider termination of Southwest Gateway and Westside Project Development Agreements with Frontier Community Builders, Inc., attached hereto marked Exhibit A. The mailing list for said matter is attached hereto marked Exhibit B.

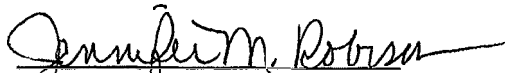
There is a regular daily communication by mail between the City of Lodi, California, and the places to which said envelopes were addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on ~~June 20, 2012~~ July 12, 2012 at Lodi, California.

ORDERED BY:

**RANDI JOHL
CITY CLERK, CITY OF LODI**


JENNIFER M. ROBISON, CMC
ASSISTANT CITY CLERK

MARIA BECERRA
ADMINISTRATIVE CLERK



CITY OF LODI
Carnegie Forum
305 West Pine Street, Lodi

Date: August 1, 2012

Time: 7:00 p.m.

For information regarding this notice please contact:

Randi Johl
City Clerk
Telephone: (209) 333-6702

EXHIBIT A

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **Wednesday, August 1, 2012**, at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a public hearing at the Carnegie Forum, 305 West Pine Street, Lodi, to consider the following item:

- a) **Termination of Southwest Gateway and Westside Project Development Agreements with Frontier Community Builders, Inc.**

Information regarding this item may be obtained in the City Manager's Office, 221 West Pine Street, Lodi, (209) 333-6700. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk, City Hall, 221 West Pine Street, 2nd Floor, Lodi, 95240, at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the close of the public hearing.

By Order of the Lodi City Council:

Randi Johl
City Clerk

Dated: June 20, 2012

Approved as to form:

D. Stephen Schwabauer
City Attorney

PH Mailing List for Southwest Gateway Development Agreement Termination

| APN | OWNER NAME | CARE OF | OWNER STREET | OWNER CITY | OWNER STATE | OWNER ZIP5 | OWNER ZIP4 |
|---------|--------------------------------|-----------------------------|-------------------------------|-------------|-------------|------------|------------|
| 2703012 | MAXINE CHRISTESEN FAMILY LP | MAXINE CHRISTESEN | 179 E TAYLOR RD | LODI | CA | 95242 | 0 |
| 2705015 | DOLLINGER, DAVID L | | 101 E HWY 12 | LODI | CA | 95240 | 0 |
| 2705016 | BROWN, BOB K & JUDITH E TR | | 35 E HWY 12 | LODI | CA | 95242 | 0 |
| 2705018 | DOLLINGER, LEROY L & GLADYS D | | 101 E HWY 12 | LODI | CA | 95242 | 0 |
| 2705019 | HEDRICK, LAMAR A & JOANN A TR | | 209 E HWY 12 | LODI | CA | 95242 | 0 |
| 2705020 | HEDRICK, LAMAR A & JOANN A TR | | 209 E HWY 12 | LODI | CA | 95242 | 0 |
| 2705021 | GEWEKE FAMILY LTD PTP | | 1139 E KETTLEMAN LN SUITE 200 | LODI | CA | 95240 | 6427 |
| 2742001 | GEWEKE VIII LP | | PO BOX 1420 | LODI | CA | 95241 | 0 |
| 5802005 | VAN RUITEN RANCH LP | | PO BOX 520 | WOODBIDGE | CA | 95258 | 0 |
| 5802013 | VAN RUITEN RANCH LP | | PO BOX 520 | WOODBIDGE | CA | 95258 | 0 |
| 5802018 | EHLERS, VIOLET TR ETAL | | 530 S MILLS AVE | LODI | CA | 95242 | 3428 |
| 5803004 | LODI LSR PROPERTIES LLC | | 10100 TRINITY PKWY STE 420 | STOCKTON | CA | 95219 | 7241 |
| 5803006 | HOWARD INVESTMENTS LLC ETAL | MATTEUCCI | 2522 GRAND CANAL BLVD STE 15 | STOCKTON | CA | 95207 | 8213 |
| 5803009 | REICHMUTH, ANDREW T ETAL | VICTORIA L BOCK TR | 424 DAISY AVE | LODI | CA | 95240 | 1010 |
| 5803010 | LODI CITY OF | CITY CLERK | PO BOX 3006 | LODI | CA | 95241 | 1910 |
| 5803011 | BDC LODI III LP | BROWMAN DEVELOPMENT COMPANY | 100 SWAN WAY SUITE 206 | OAKLAND | CA | 94621 | 1459 |
| 5803012 | WAL MART REAL EST BUSINESS TRU | RE PROPERTY TAX DEPT | MAIL STOP 0555 | BENTONVILLE | AR | 72716 | 555 |
| 5803013 | BDC LODI III LP | BROWMAN DEVELOPMENT CO | 100 SWAN WAY STE 206 | OAKLAND | CA | 94621 | 0 |
| 5803014 | VAN RUITEN RANCH LP | | 463 W TURNER RD | LODI | CA | 95242 | 9642 |
| 5803015 | VAN RUITEN RANCH LP | | PO BOX 520 | WOODBIDGE | CA | 95258 | 0 |

EXHIBIT B

PH Mailing List for Southwest Gateway Development Agreement Termination

| | | | | | | |
|---------|--------------------------------|----------------------------|------------|----|-------|------|
| 5803016 | LODI LSR PROPERTIES LLC | 10100 TRINITY PKWY STE 420 | STOCKTON | CA | 95219 | 7241 |
| 5803017 | VAN RUITEN RANCH LP | PO BOX 520 | WOODBIDGE | CA | 95258 | 0 |
| 5803018 | VAN RUITEN RANCH LP | PO BOX 520 | WOODBIDGE | CA | 95258 | 0 |
| 5804001 | SCHUMACHER, WELDON & BONNIE TR | 1303 RIVERGATE DR | LODI | CA | 95240 | 549 |
| 5804002 | SCHUMACHER, WELDON & BONNIE TR | 1303 RIVERGATE DR | LODI | CA | 95240 | 549 |
| 5804004 | SCHUMACHER, WELDON & BONNIE TR | 1303 RIVERGATE DR | LODI | CA | 95240 | 549 |
| 5804005 | SCHUMACHER, WELDON & BONNIE TR | 1303 RIVERGATE DR | LODI | CA | 95240 | 549 |
| 5804006 | RIEGER, EARL & NAOMI | 395 E HARNEY LN | LODI | CA | 95242 | 0 |
| 5804007 | WELLS, LARRY D & D R | 427 E HARNEY LN | LODI | CA | 95240 | 6832 |
| 5804008 | DIETRICH, NORENE | 463 E HARNEY LN | LODI | CA | 95240 | 0 |
| 5804009 | MASTEL, PHYLLIS TR | 499 E HARNEY LN | LODI | CA | 95240 | 0 |
| 5804010 | ALVAREZ, JOE L ETAL | 533 E HARNEY LN | LODI | CA | 95242 | 0 |
| 5804011 | PINNELL, ROBERT S & LETHA J | PO BOX 155 | VICTOR | CA | 95253 | 155 |
| 5804012 | HALL, FRANK | 2613 W HARNEY LN | LODI | CA | 95242 | 9570 |
| 5804013 | W L INVESTORS LP | 10100 TRINITY PKWY STE 420 | STOCKTON | CA | 95219 | 7241 |
| 5804014 | TAMURA, JOEY TR | 788 W ARMSTRONG RD | LODI | CA | 95242 | 9544 |
| 5804015 | VAN RUITEN, ROBERT TR | PO BOX 548 | WOODBIDGE | CA | 95258 | 0 |
| 5805001 | BRADEN, RONALD B & A | 36 E HARNEY LN | LODI | CA | 95240 | 0 |
| 5805002 | BECERRA, VALENTIN & ELVIRA | 102 E HARNEY LN | LODI | CA | 95242 | 0 |
| 5805003 | BADYAL, JASBIR ETAL | 184 E HARNEY LN | LODI | CA | 95242 | 9503 |
| 5807007 | HAYN, BRIAN S | 810 E HARNEY LN | LODI | CA | 95242 | 9534 |
| 5807008 | BELL, LYNDE A TR | 814 E HARNEY LN | LODI | CA | 95242 | 0 |
| 5807010 | PANOS, PETE N & PENNY TR | 13420 SHATTUCK TRACT RD | LODI | CA | 95242 | 0 |
| 5808022 | FUNAMURA, GARY M TR | PO BOX 255824 | SACRAMENTO | CA | 95865 | 5824 |
| 5808020 | ARMSTRONG, THOMAS & RACHEL | 582 SPRINGER LN | LODI | CA | 95240 | 0 |
| 5808017 | CHAMPLIN, THERESA A | 13401 N EXTENSION RD | LODI | CA | 95242 | 9249 |
| 5808018 | COOK, MARK T | 590 SPRINGER LN | LODI | CA | 95240 | 0 |

PH Mailing List for Southwest Gateway Development Agreement Termination

| | | | | | | | |
|---------|--------------------------------|--|-----------------------------|--------------|----|-------|------|
| 5808016 | HAKALA, HARRY & MICHELLE L TR | | 13421 EXTENSION CT | LODI | CA | 95242 | 0 |
| 5808005 | HAGELIE, BERDEAN TR | | 501 SPRINGER LN | LODI | CA | 95242 | 9224 |
| 5808007 | HUCKINS, RAY S | | 527 SPRINGER LN | LODI | CA | 95242 | 9224 |
| 5808014 | RODRIGUEZ, SERGIO & MARIA A | | 13447 N LOWER SAC RD | LODI | CA | 95242 | 0 |
| 5808015 | BYRUM, PHYLLIS S LF EST | | 598 SPRINGER LN | LODI | CA | 95242 | 9224 |
| 5808008 | KIRSCHENMAN, JOHN & RHONDA | | 13145 N LOWER SACRAMENTO RD | LODI | CA | 95242 | 9284 |
| 5808010 | DYAS, JASON L | | 569 SPRINGER LN | LODI | CA | 95242 | 0 |
| 5807005 | WILLIAMS, BARBARA L TR | | 692 E HARNEY LN | LODI | CA | 95242 | 9588 |
| 5807004 | HERNANDEZ, STEVEN & MICHELLE L | | 668 E HARNEY LN | LODI | CA | 95240 | 0 |
| 5807003 | GEIST, CLIFFORD & M D | | 650 W HARNEY LANE | LODI | CA | 95240 | 0 |
| 5808013 | SANCHEZ, LUIS & ANGELA | | 634 E HARNEY LN | LODI | CA | 95242 | 9588 |
| 5808012 | CHRISTOPHERSON, EDWARD & CASSA | | 29 N ALLEN DR | LODI | CA | 95242 | 2808 |
| 5808011 | DAIS, KATHLEEN C TR | | 270 E THIRD AVE | CHICO | CA | 95926 | 0 |
| 5808009 | GATES, DAVID L & BETTY L TR | | 540 E HARNEY LN | LODI | CA | 95242 | 0 |
| 5808006 | QUEZADA, JAVIER & MARIA TERESA | | 502 E HARNEY LN | LODI | CA | 95242 | 0 |
| 5808004 | GRELLE, JERRY B & CATHRYN B | | 490 E HARNEY LN | LODI | CA | 95242 | 0 |
| 5807001 | RICE, LESLEY M | | 13480 N EXTENSION RD | LODI | CA | 95242 | 9249 |
| 5805005 | LODI UNIFIED, SCHOOL DIST | | | | | 0 | 0 |
| 5805004 | URIZ, FAUSTINO & MARIA C TR | | 202 E HARNEY LN | LODI | CA | 95240 | 0 |
| 5814006 | HERRMANN, CHARLENE K TR ETAL | | 330 S FAIRMONT AVE #3 | LODI | CA | 95240 | 3843 |
| 5814007 | DEL RIO, SANTIAGO M & RAMONA T | | 15315 N HOERL RD | LODI | CA | 95240 | 9493 |
| 5814012 | PETERSON, M BILL | | PO BOX 473 | LOCKEFORD | CA | 95237 | 0 |
| 5814014 | PETERSON, RUTH SUSAN TR | | PO BOX 331 | SUTTER CREEK | CA | 95685 | 0 |
| 5814051 | LODI CITY OF | | PO BOX 3006 | LODI | CA | 95241 | 0 |

PH Mailing List for Southwest Gateway Development Agreement Termination

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|---------|--------------------------------|--|----------------------|-----------|----|-------|------|
| 5814052 | PETERSON, M BILL | | PO BOX 473 | LOCKEFORD | CA | 95237 | 0 |
| 5822001 | MARTIN, JOHN L & MARILYN A TR | | 791 KRISTEN CT | LODI | CA | 95242 | 9554 |
| 5822002 | VAUGHN, FREDDIE L & KHRISTINA | | 805 KRISTEN CT | LODI | CA | 95242 | 0 |
| 5822003 | ROSEN, MARTY & KIMI | | 833 KRISTEN CT | LODI | CA | 95242 | 9554 |
| 5822011 | LANGWORTHY, ELMER D & S M | | 13710 HARTLEY LN | LODI | CA | 95240 | 0 |
| 5822012 | LEAR, WOODBURN L & CLAIRE L TR | | 13696 HARTLEY LN | LODI | CA | 95242 | 9552 |
| 5822019 | SHAHZAD, KHURRAM | | 830 TEHAMA DR | LODI | CA | 95242 | 9553 |
| 5822020 | WISENOR, GERALD L & LAUREL M T | | 808 TEHAMA DR | LODI | CA | 95242 | 9553 |
| 5822021 | SAN JOAQUIN, COUNTY OF | | | | | 0 | 0 |
| 5822022 | LUU, NHI & MINH H | | 13625 HARTLEY LN | LODI | CA | 95242 | 0 |
| 5822023 | CAGLE, FRED R & BARBARA J | | 2289 DEER OAK WAY | DANVILLE | CA | 94506 | 0 |
| 5822024 | SAN JOAQUIN, COUNTY OF | | | | | 0 | 0 |
| 5823004 | KUBOTA, TSUGIO TR ETAL | | 1500 VISTA DR | LODI | CA | 95242 | 0 |
| 5823010 | SCHUMACHER, WELDON D & BONNIE | | 1303 RIVERGATE DR | LODI | CA | 95240 | 549 |
| 5823023 | LODI, CITY OF | | CITY HALL | LODI | CA | 95240 | 0 |
| 5823024 | LODI CITY OF | | PO BOX 3006 | LODI | CA | 95241 | 1910 |
| 5806010 | SIDHU, NACHHATAR S & RUSE V | | 5360 GLADSTONE DR | STOCKTON | CA | 95219 | 7129 |
| 5864001 | TOKAY DEVELOPMENT INC | | PO BOX 1259 | WOODBIDGE | CA | 95258 | 0 |
| 5864002 | IM, CHONG A TR | | 2431 VINTAGE OAKS CT | LODI | CA | 95242 | 9347 |
| 5864012 | VALLEJO, ROSEMARY O | | 2428 VINTAGE OAKS CT | LODI | CA | 95242 | 9347 |
| 5864013 | THIARA, SUKHVINDER TR | | PO BOX 599 | LODI | CA | 95241 | 0 |
| 5864014 | KIRST, J JEFFREY & CAROL A | | PO BOX 1259 | WOODBIDGE | CA | 95258 | 0 |
| 5864015 | KIRST, CRYSTAL ANN TR | | 2448 VINTAGE OAKS CT | LODI | CA | 95242 | 9347 |
| 5864016 | GERLACK, JOHN D & BARBARA A TR | | 2449 VINTAGE OAKS CT | LODI | CA | 95242 | 9347 |

PH Mailing List for Southwest Gateway Development Agreement Termination

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|---------|-------------------------|--|----------------------|------|----|-------|------|
| 5864017 | GERLACK, JOHN D & B TRS | | 2449 VINTAGE OAKS CT | LODI | CA | 95242 | 9347 |
|---------|-------------------------|--|----------------------|------|----|-------|------|

PH Mailing List for Westside Development Agreement Termination

| APN | OWNER NAME | CARE OF | OWNER STREET | OWNER CITY | OWNER STATE | OWNER ZIP5 | OWNER ZIP4 |
|---------|-------------------------------|---------------------------|----------------------------|-------------|-------------|------------|------------|
| 2703008 | TRAVERSO, JEFFREY VIRGIL ETAL | MICHAEL L MANNA RANCH INC | PO BOX 247 | ACAMPO | CA | 95220 | 5321 |
| 2703022 | FUKUNAGA, R MICHAEL | | 14704 N BECKMAN RD | LODI | CA | 95240 | 0 |
| 2705001 | MAXINE CHRISTESEN FAMILY LP | MAXINE CHRISTESEN | 179 E TAYLOR RD | LODI | CA | 95242 | 0 |
| 2705002 | MAXINE CHRISTESEN FAMILY LP | MAXINE CHRISTESEN | 179 E TAYLOR RD | LODI | CA | 95242 | 0 |
| 2705022 | MINER JOAQUIN BUILDING CORP | | 301 E MINER AVE | STOCKTON | CA | 95202 | 2501 |
| 2724001 | TEMPLE, BONNIE J TR | | 6929 BISMARCK DR | N HIGHLANDS | CA | 95660 | 0 |
| 2724002 | HALE, RAYMOND L | | 309 LELAND CT | LODI | CA | 95242 | 0 |
| 2724009 | LIEBIG, GIDEON J TR | | 317 LELAND CT | LODI | CA | 95242 | 0 |
| 2740001 | TRAVERSO, JEFFREY VIRGIL ETAL | MICHAEL L MANNA RANCH INC | PO BOX 247 | ACAMPO | CA | 95220 | 5321 |
| 2740002 | DHKS DEV CO | | 621 EVERGREEN DR | LODI | CA | 95242 | 4683 |
| 2740004 | KRISTMONT WEST | | 7700 COLLEGE TOWN DR #111 | SACRAMENTO | CA | 95826 | 0 |
| 2740005 | WESTGATE SHOPPING CENTER LLC | AKT DWELOPMENT INC | 7700 COLLEGE TOWN DR #101 | SACRAMENTO | CA | 95826 | 0 |
| 2740006 | KRISTMONT WEST | | 7700 COLLEGE TOWN DR #111 | SACRAMENTO | CA | 95826 | 0 |
| 2740009 | KRISTMONT WEST | | 7700 COLLEGE TOWN DR #111 | SACRAMENTO | CA | 95826 | 0 |
| 2740011 | KRISTMONT, WEST | | 7700 COLLEGE TOWN DR #111 | SACRAMENTO | CA | 95826 | 0 |
| 2740012 | TEMPLE BAPTIST CHURCH OF LODI | | 801 S LOWER SAC RD | LODI | CA | 95242 | 0 |
| 2740015 | LODI WESTSIDE PROPERTIES LLC | | 10100 TRINITY PKWY STE 420 | STOCKTON | CA | 95219 | 7241 |
| 2740016 | LODI UNIFIED SCHOOL DISTRICT | FACILITY PLANNING DEPT | 1350 E VINE ST | LODI | CA | 95240 | 3148 |
| 2902020 | PERROTT, PATRICK ANDREW ETAL | | 17560 HIGHLAND BLVD | SONOMA | CA | 95476 | 0 |

PH Mailing List for Westside Development Agreement Termination

| | | | | | | | |
|---------|-----------------------------------|------------|---------------------|--------|----|-------|------|
| 2902021 | PERROTT, PATRICK ANDREW ETAL | | 17560 HIGHLAND BLVD | SONOMA | CA | 95476 | 0 |
| 2902022 | JUNGEBLUT, ROSEMARY TR ETAL | | 859 TILDEN DR | LODI | CA | 95242 | 0 |
| 2938005 | PERLEGOS, GEORGIA ETAL | | PO BOX 1823 | LODI | CA | 95241 | 0 |
| 2943035 | HEINSELMAN, BRENT & JENNIFER | | 29 PARADISE DR | LODI | CA | 95242 | 8328 |
| 2943034 | DESCHAMP, DAVID | | 2920 APPLEWOOD DR | LODI | CA | 95242 | 8318 |
| 2943033 | HANSEN, LAWRENCE DONALD & LIND | | 2928 APPLEWOOD DR | LODI | CA | 95242 | 0 |
| 2943032 | HERYFORD, WILLIAM P & TINA C W | | 2936 APPLEWOOD DR | LODI | CA | 95242 | 8318 |
| 2943031 | KORT, DALLAS & JONI ELLEN TR | | 2944 APPLEWOOD DR | LODI | CA | 95242 | 8318 |
| 2943030 | BATCH, ROBERT II & AMBER | | 2952 APPLEWOOD DR | LODI | CA | 95242 | 8318 |
| 2943029 | GIANNONI, KERRY M | | 2960 APPLEWOOD DR | LODI | CA | 95242 | 0 |
| 2943028 | SPALETTA, JASON & JENNIFER | | 45 APPLEWOOD DR | LODI | CA | 95242 | 0 |
| 2943011 | BRAND, RICKY L & LEILA M TR | | 2931 APPLEWOOD DR | LODI | CA | 95242 | 8318 |
| 2943012 | TURNER, RICHARD & MARGARITA | | 2943 APPLEWOOD DR | LODI | CA | 95242 | 8318 |
| 2943027 | MILLER, RICKY D & JULIE A | | 55 APPLEWOOD DR | LODI | CA | 95242 | 8319 |
| 2943013 | GARIBALDI, RONALD ANDREW & SHA | | 52 APPLEWOOD DR | LODI | CA | 95242 | 8319 |
| 2943026 | SHERMAN, PATRICK H & JANET R T | | 63 APPLEWOOD DR | LODI | CA | 95242 | 8319 |
| 2952043 | LODI CITY OF | CITY CLERK | PO BOX 3006 | LODI | CA | 95241 | 1910 |
| 2952029 | MYERS, JERRY L | | 142 BOXWOOD CT | LODI | CA | 95242 | 0 |
| 2952030 | NICHOLS, DENNIS L | | 136 BOXWOOD CT | LODI | CA | 95242 | 0 |
| 2952028 | BURKS, PHILLIP C & LINDSEY E | | 139 BOXWOOD CT | LODI | CA | 95242 | 8343 |
| 2952031 | ODOM, DENISE A | | 130 BOXWOOD CT | LODI | CA | 95242 | 0 |
| 2952027 | MATTHEWS, DALE K | | 127 BOXWOOD CT | LODI | CA | 95242 | 0 |

PH Mailing List for Westside Development Agreement Termination

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|---------|--------------------------------|---------------|-------------------------|----------|----|-------|------|
| 2952020 | O DONNELL, ZACHARY R & KELLY J | | 130 FIELDSTONE CT | LODI | CA | 95242 | 0 |
| 2952032 | WILSON, TERRIE ETAL | | 124 BOXWOOD CT | LODI | CA | 95242 | 8343 |
| 2952026 | WENTZ, RYAN J | | 121 BOXWOOD CT | LODI | CA | 95242 | 8343 |
| 2952021 | SOUTHERN, MARK L & VICKIE L TR | | 120 FIELDSTONE CT | LODI | CA | 95242 | 8342 |
| 2952025 | HALEY, TRUDY L | | 115 BOXWOOD CT | LODI | CA | 95242 | 8343 |
| 2952022 | HAPPEL, DEAN A ETAL | | 114 FIELDSTONE CT | LODI | CA | 95242 | 0 |
| 2952019 | AMERICAN LENDER SERVICING LLC | | 3240 N AD ART RD STE A4 | STOCKTON | CA | 95215 | 2257 |
| 2952024 | MCGOWAN, DENNIS J | | 107 BOXWOOD CT | LODI | CA | 95242 | 0 |
| 2952023 | LARRABEE, GARY M & KELLY L | | 108 FIELDSTONE CT | LODI | CA | 95242 | 0 |
| 2952018 | WEBB, BRADLEY B & BRONWYN A | | 109 FIELDSTONE CT | LODI | CA | 95242 | 8342 |
| 2952017 | MAGEE, JERRY K & AZIZA A | | 2640 CREEKSIDE DR | LODI | CA | 95242 | 8341 |
| 2952010 | OSENGA, DENNIS J & PATRICIA J | | 2615 CREEKSIDE DR | LODI | CA | 95242 | 0 |
| 2952011 | LINCZ, FRANK | | 2621 CREEKSIDE DR | LODI | CA | 95242 | 8341 |
| 2952012 | WILSON, ROBERT G & NANCY A TR | | 2627 CREEKSIDE DR | LODI | CA | 95242 | 8341 |
| 2952013 | CHANG, CHE MING TR | | 2633 CREEKSIDE DR | LODI | CA | 95242 | 8341 |
| 2952014 | LIEBELT, BRIAN D & MARLIES N | | 2639 CREEKSIDE DR | LODI | CA | 95242 | 0 |
| 2952015 | SINGH, MOHINDER P & RAJDEEP | | 2643 CREEKSIDE DR | LODI | CA | 95242 | 8341 |
| 2952016 | PERLEGOS, JEFF ETAL | JOHN PERLEGOS | PO BOX 1823 | LODI | CA | 95241 | 0 |
| 2952004 | BYRD, RICHARD & TRACI | | 2618 PARADISE DR | LODI | CA | 95242 | 8327 |
| 2952003 | ROMERO, ANTHONY J & MELISSA M | | 2622 PARADISE DR | LODI | CA | 95242 | 0 |
| 2952002 | HARRISON, PATRICIA A | | 2628 PARADISE DR | LODI | CA | 95242 | 8327 |
| 2952001 | PERLEGOS, GEORGIA | | PO BOX 1823 | LODI | CA | 95241 | 0 |
| 2950019 | PERGERSON, MATTHEW T & GINA E | | 2640 PARADISE DR | LODI | CA | 95242 | 0 |
| 2950018 | WOODS, STEVEN P & DENISE L | | 2646 PARADISE DR | LODI | CA | 95242 | 8327 |

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| 2950017 | HURST, SHARON D TR | | 2652 PARADISE DR | LODI | CA | 95242 | 0 |
| 2950007 | MILLER, JAMES D JR & LARELLE L | | 2658 PARADISE DR | LODI | CA | 95242 | 0 |
| 2950006 | MARTINEZ, ERASMO JR & ELAINA L | | 2664 PARADISE DR | LODI | CA | 95242 | 8327 |
| 2950005 | LUNDQUJST, JOAN TR | | 2670 PARADISE DR | LODI | CA | 95242 | 8327 |
| 2950009 | DHALIWAL, JASBIR & HARBINDER T | | 2647 PARADISE DR | LODI | CA | 95242 | 8327 |
| 2950004 | NORTON, RONALD G & NAOMI JOYCE | | 2676 PARADISE DR | LODI | CA | 95242 | 0 |
| 2950010 | BRUNO, JEFFERY P & KATHLEEN M | | 2655 PARADISE DR | LODI | CA | 95242 | 0 |
| 2950003 | WATSON, STEVEN D & IVA M | | 2682 PARADISE DR | LODI | CA | 95242 | 0 |
| 2950011 | BALL, DOUGLAS | | 2661 PARADISE DR | LODI | CA | 95242 | 0 |
| 2950002 | UYEMURA, DELMERT & JULIE K | | 2688 PARADISE DR | LODI | CA | 95242 | 8327 |
| 2950012 | TWITTY, MIKE W & JILL M | | 2667 PARADISE DR | LODI | CA | 95242 | 0 |
| 2950001 | ROJAS, RICHARD M & GAYLE A TR | | 2695 PARADISE DR | LODI | CA | 95242 | 8327 |
| 2950013 | MAYERS, FREDERICK R TR ETAL | | 2673 PARADISE DR | LODI | CA | 95242 | 0 |
| 2949022 | CURL, JASON & JENNIFER K | | 2704 PARADISE DR | LODI | CA | 95242 | 8306 |
| 2950014 | DAVIS, ROGER E & PATRICIA A TR | | 2679 PARADISE DR | LODI | CA | 95242 | 8327 |
| 2949021 | CRANFORD, STEVE P & LISA C | | 2712 PARADISE DR | LODI | CA | 95242 | 8306 |
| 2950015 | LEWIS, MARTHA E | | 935 INTERLAKEN DR | LODI | CA | 95242 | 0 |
| 2949020 | HEBERLE, FREDERICK J & JUDY D | | 2720 PARADISE DR | LODI | CA | 95242 | 8306 |
| 2950016 | SHANKLES, WILLIAM D & JANICE J | | 2691 PARADISE DR | LODI | CA | 95242 | 0 |
| 2949019 | DEMPSEY, LLOYD B & MARCIA M TR | | 2728 PARADISE DR | LODI | CA | 95242 | 8306 |
| 2949023 | MCMILLEN, LARRY K & JEANNE L | | 2715 PARADISE DR | LODI | CA | 95242 | 8306 |

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| 2949018 | CHRISTENSEN, ANDERS & JOAN | | 2804 PARADISE DR | LODI | CA | 95242 | 0 |
| 2949017 | MACBETH, KATHY L | | 2812 PARADISE DR | LODI | CA | 95242 | 0 |
| 2949024 | MAGDANZ, KENNETH G SR & NAOMI | | 4 EVERGREEN DR | LODI | CA | 95242 | 8307 |
| 2949016 | KESSLER, JOAN M TR | | 2820 PARADISE DR | LODI | CA | 95242 | 8330 |
| 2949015 | BUTORAC, JOHN P TR | | 2828 PARADISE DR | LODI | CA | 95242 | 0 |
| 2949004 | ARCHULETA, JORDAN A | | 2811 PARADISE DR | LODI | CA | 95242 | 0 |
| 2949014 | STURMAN, JOSHUA J & LAUREN M | | 2836 PARADISE DR | LODI | CA | 95242 | 8330 |
| 2949013 | HALL, LYNN E TR ETAL | | 2844 PARADISE DR | LODI | CA | 95242 | 8330 |
| 2949012 | HERRICK, BRADLEY C & BEVERLY F | | 2852 PARADISE DR | LODI | CA | 95242 | 0 |
| 2949011 | PEARSON, SUSAN P TR | | 2860 PARADISE DR | LODI | CA | 95242 | 8330 |
| 2949005 | SHEPARD, ROBERT L JR & ANGELA | | 2819 PARADISE DR | LODI | CA | 95242 | 8330 |
| 2949006 | JACKSON, KENNETH L & MARY L TR | | 8235 BELLA VINA | LODI | CA | 95240 | 9534 |
| 2949007 | REITZ, MICHAEL DONALD & DIANA | | 2833 PARADISE DR | LODI | CA | 95242 | 8330 |
| 2949010 | GATSCHET, TIMOTHY W & DONNA LE | | 2868 PARADISE DR | LODI | CA | 95242 | 8330 |
| 2949008 | CRIVELLI, STEVEN & JULIE A | | 2841 PARADISE DR | LODI | CA | 95242 | 0 |
| 2949009 | BATCH, ROBERT II TR | | 2952 APPLEWOOD DR | LODI | CA | 95242 | 8318 |
| 2932001 | DOLLINGER, VIOLA TR | | 2537 CENTRAL PARK DR | LODI | CA | 95242 | 3211 |
| 2932002 | GRIFFANTI, NANCY L TR | | 2541 CENTRAL PARK DR | LODI | CA | 95242 | 3211 |
| 2932003 | WESTERBACK, EDWIN & DENISE TR | | 2545 CENTRAL PARK DR | LODI | CA | 95242 | 3211 |
| 2932004 | MCFARLAND, JAMES R & ELNA | | 2549 CENTRAL PARK DR | LODI | CA | 95242 | 3211 |
| 2932005 | UPDEGRAFT, BARBARA D TR ETAL | | 2553 CENTRAL PARK DR | LODI | CA | 95242 | 0 |
| 2932006 | WRIGHT, JOAN F | | 2557 CENTRAL PARK DR | LODI | CA | 95242 | 3211 |

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| 2932007 | BARTHOLOMEW, ESTHER L TR ETAL | | 2561 CENTRAL PARK DR | LODI | CA | 95242 | 3211 |
| 2932008 | ROSEBERRY, CAROL R TR | | 2565 CENTRAL PARK DR | LODI | CA | 95242 | 0 |
| 2932009 | MCMAHON, MARY ELLEN TR | | 2569 CENTRAL PARK DR | LODI | CA | 95242 | 0 |
| 2932010 | CAVEY, NOLAND B & SANDRA J TR | | 8079 CARIBBEAN WAY | SACRAMENTO | CA | 95826 | 0 |
| 2932011 | BONNER, CHERYL | | 2577 CENTRAL PARK DR | LODI | CA | 95242 | 321 |
| 2932012 | BENTZ, BEVERLY TR ETAL | | 2581 CENTRAL PARK DR | LODI | CA | 95242 | 0 |
| 2932013 | MORIWAKI, SUGA ANN | | 2585 CENTRAL PARK DR | LODI | CA | 95242 | 0 |
| 2932014 | GARIBALDI, WILMA J TR | | 2589 CENTRAL PARK DR | LODI | CA | 95242 | 0 |
| 2932015 | FIELD, MARILYN E TR | | 624 PALM AVE | LODI | CA | 95240 | 920 |
| 2932016 | MCINTOSH, MARGARET R TR | | 2339 HYDE PARK CIR | LODI | CA | 95242 | 3249 |
| 2932017 | PARKIN, PATRICIA LEA | | 2343 HYDE PARK CIR | LODI | CA | 95240 | 0 |
| 2932018 | COONEY, LOLA M TR | | 2347 W HYDE PARK CIR | LODI | CA | 95242 | 0 |
| 2932019 | WHITE, WARNER & DONNA | | 5185 CONGRESSIONAL ST | CHOWCHILLA | CA | 93610 | 8402 |
| 2932020 | GRANT, JAMES R III & KATHRYN | | 2355 HYDE PARK CIR | LODI | CA | 95242 | 3249 |
| 2932021 | PARK, CHUNIL & SOONJA | | 1316 BONITA AVE #6 | BERKELEY | CA | 94709 | 1965 |
| 2932022 | LEONARD, BARBARA JEAN TR | | 2363 HYDE PARK CIR | LODI | CA | 95242 | 3249 |
| 2932023 | MACOMBER, ROY C & ADELAIDE TR | | 2367 HYDE PARK CIR | LODI | CA | 95242 | 3249 |
| 2932024 | BANK OF STOCKTON TRUST DEPT TR | ATTN LU ANNE LEWIS AVP TRUST O | PO BOX 201014 | STOCKTON | CA | 95201 | 0 |
| 2932025 | THOMAS, STEVEN J | | 2375 HYDE PARK CIR | LODI | CA | 95242 | 3251 |
| 2932026 | SWEENEY, JAMES M TR ETAL | | 1930 EDGEWOOD DR | LODI | CA | 95242 | 2305 |

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| 2932027 | DURHAM, JUDITH J TR | | 2383 HYDE PARK CIR | LODI | CA | 95242 | 0 |
| 2932028 | FARRELL, COLETTE L TR | | 2330 MEDALLION WAY | LODI | CA | 95242 | 4749 |
| 2932029 | STARRICK, RAYMOND & EUSTOLIA | | 2388 HYDE PARK CIR | LODI | CA | 95242 | 3250 |
| 2932030 | SEIBEL, DONALD J TR | | 2384 HYDE PARK CIR | LODI | CA | 95242 | 3250 |
| 2932031 | SWEIGARD, VIRGINIA I TR | | 2376 HYDE PARK CIR | LODI | CA | 95242 | 3250 |
| 2932032 | WALKER, STEPHEN U & JUDY ANN T | | 2348 HYDE PARK CIR | LODI | CA | 95242 | 0 |
| 2932033 | EUSTIS, MARY JO | | 2342 HYDE PARK CIR | LODI | CA | 95242 | 3239 |
| 2932034 | MCLEAN, MARGARET C TR | | 2338 HYDE PARK CIR | LODI | CA | 95242 | 3239 |
| 2932035 | PARKISON, MARJORIE L TR | | 2334 HYDE PARK CIR | LODI | CA' | 95242 | 0 |
| 2932036 | SCHMIDT, WALTER TR | JEAN SCHMIDT | 208 GRAMERCY PARK DR | LODI | CA | 95242 | 3254 |
| 2932037 | REISS, W & C COTRS ETL | | 204 GRAMERCY PARK DR | LODI | CA | 95242 | 0 |
| 2932038 | MITCHELL, CHERYL R TR | | 200 GRAMERCY PARK DR | LODI | CA | 95242 | 0 |
| 2932039 | HUGO, JERRY ETAL | MICHAEL JOHN & KATHERINE HUGO | 166 LINDHOLM LN | BAYSIDE | CA | 95524 | 0 |
| 2932040 | BUNNELL, DOLORES A TR | | 2491 MACARTHUR PKWY | LODI | CA | 95242 | 0 |
| 2932041 | ROSENAU, LELAND A & D ARLENE R | | 15625 N DAVIS RD | LODI | CA | 95242 | 0 |
| 2932042 | SWOFFORD, DIANE | | 2483 MACARTHUR PKWY | LODI | CA | 95242 | 3253 |
| 2932043 | SMITH, DONALD R & LILA F TR | | 2479 MACARTHUR PKWY | LODI | CA | 95242 | 0 |
| 2932044 | SHERIDAN, KATHLEEN M | KATHLEEN THOMPSON | 2475 MACARTHUR PKWY | LODI | CA | 95242 | 0 |
| 2932045 | DEMSKI, STANLEY L TR ETAL | | 2471 MACARTHUR PKWY | LODI | CA | 95242 | 0 |
| 2932046 | BOSSALLER, ANDREW P & KIMM | | 2467 MACARTHUR PKWY | LODI | CA | 95242 | 3253 |
| 2932047 | ORGON, ANNA TR | | 2463 MACARTHUR PKWY | LODI | CA | 95242 | 3253 |

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| 2932048 | KUEHNE, LLOYD D TR ETAL | | 2459 MACARTHUR PKWY | LODI | CA | 95242 | 0 |
| 12932049 | MCINTOSH, GREGORY JAMES & LORI | | PO BOX 414 | PACIFICPALISAD | CA | 90272 | 0 |
| 2932050 | PAIGE, JAMES M | | 2451 MACARTHUR PKWY | LODI | CA | 95242 | 3252 |
| 2932051 | FORE, MILLARD L & NORMA J TR | | 2447 MACARTHUR PKWY | LODI | CA | 95242 | 0 |
| 2932052 | GLENN, JERRY L & SUSAN Y | | 2443 MACARTHUR PARKWAY | LODI | CA | 95242 | 0 |
| 2932053 | FELL, DOUGLAS E TR | | 222E CARRILLO ST STE 400 | SANTA BARBARA | CA | 93101 | 0 |
| 2932054 | GABRIELSON, CURTIS G & BEVERLY | | 2435 MACARTHUR | | | | |
| 2932055 | HONEY, RAYMOND L & JANET K | | 2431 MACARTHUR PKWY | LODI | CA | 95242 | 3252 |
| 2932056 | ROBINSON, DEAN N & JANET F TR | | 1114 HEIDELBERGWAY | LODI | CA | 95242 | 9142 |
| 2932057 | SALISBURY, STACEY TR | | 1324 DEERFIELD CT | LODI | CA | 95242 | 4537 |
| 2932058 | ANDERSON, DONALD K & LORETTA S | | 725 FAIRVIEW BLVD #17 | INCLINE VILLAGE | NV | 89451 | 0 |
| 2932059 | DANIELS, VIRGINIA T TR ETAL | | 2406 CENTRAL PARK DR | LODI | CA | 95242 | 3205 |
| 2932060 | GROVE, BARBARA W TR | | 2410 CENTRAL PARK DR | LODI | CA | 95242 | 3205 |
| 2932061 | YACOPETTI, MARJORIE J | | PO BOX 2152 | LODI | CA | 95241 | 2152 |
| 2932062 | APPLING, DONALD R TR | | PO BOX 1555 | WOODBIDGE | CA | 95258 | 0 |
| 2932063 | HARO, SAL JAMES TR & EMILY M T | | 2401 CENTRAL PARK DR | LODI | CA | 95242 | 3206 |
| 2932064 | FORNEY, CHARLES A & MAWS B TR | | 2397 CENTRAL PARK DR | LODI | CA | 95242 | 0 |
| 2932065 | HANDEL, LEON E TR ETAL | | 10155 E KETTLEMAN LN | LODI | CA | 95240 | 0 |
| 2932066 | SCHULENBURG, ROBERT W TR | | 15740 MOORE RD | LODI | CA | 95242 | 9262 |
| 2932067 | KERNER, MARLO L & HAZEL M TR | | 2430 CENTRAL PARK DR | LODI | CA | 95242 | 3205 |

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| 2932068 | BAUSERMAN, GEORGE L & CAROL K | | 2434 CENTRAL PARK DR | LODI | CA | 95242 | 3205 |
| 2932069 | KRONEMANN, LINDA L TR | | 2438 CENTRAL PARK DR | LODI | CA | 95242 | 3205 |
| 2932070 | HUKILL, ANNETTE M TR | GEORGE S CHALMERS | 1234 HEARTWOOD DR | ROHNERT PARK | CA | 94928 | 0 |
| 2932071 | PHILLIPS, LESLIE TR | HERMANOTTER REV TRUST | 2446 CENTRAL PARK DR | LODI | CA | 95242 | 3205 |
| 2932072 | WILLIAMS, ELIZABETH N TR ETAL | | PO BOX 1064 | WOODBIDGE | CA | 95258 | 0 |
| 2932073 | EMLER, LYDIA M TR | | 2462 CENTRAL PARK DR | LODI | CA | 95242 | 3207 |
| 2932074 | THOMASON, BOB M & DONNA D TR | | 2466 CENTRAL PARK DR | LODI | CA | 95242 | 0 |
| 2932075 | MERRILL, H L TR | | 2470 CENTRAL PARK DR | LODI | CA | 95242 | 0 |
| 2932076 | MOREHEAD, SKIP R ETAL | | 2474 CENTRAL PARK DR | LODI | CA | 95242 | 3207 |
| 2932077 | BLAUFUS, JOHN L & LAURI M | | 2478 CENTRAL PARK DR | LODI | CA | 95242 | 3207 |
| 2932078 | ARMKNECHT, JANETTE TR | | 5595 SAN ANTONIO ST | PLEASANTON | CA | 94566 | 0 |
| 2932079 | DUNCAN, HAROLD W & NONA E TR | | 2486 CENTRAL PARK DR | LODI | CA | 95242 | 0 |
| 2932080 | EWOLDT, DONALD D & ETHEL L | | 2490 CENTRAL PARK DR | LODI | CA | 95242 | 3209 |
| 2932081 | BEWLEY, JOSEPH & MONIQUE | | 2494 CENTRAL PARK DR | LODI | CA | 95242 | 3209 |
| 2932082 | SOLARI, ANNETTA M TR ETAL | | 2498 CENTRAL PARK DR | LODI | CA | 95242 | 0 |
| 2932083 | CONN, JANET L TR | | PO BOX 738 | LODI | CA | 95241 | 0 |
| 2932084 | POLLARD, ROBERTE & CORINNE C | | 2485 CENTRAL PARK DR | LODI | CA | 95242 | 3208 |
| 2932085 | GARVEY, SHARON A TR | | 2481 CENTRAL PARK DR | LODI | CA | 95242 | 3208 |
| 2932086 | PEABODY, DERRIL E & LINDA L | | 2477 CENTRAL PARK DR | LODI | CA | 95242 | 3208 |

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| 2932087 | SWIFT, SYLVIA L TR | SYLVIA L SWIFT FAMILY TRUST | (PO BOX 1977 | MINDEN | NV | 894231 | 0 |
| 2932088 | HOPE, BETTY L TR | | 2469 CENTRAL PARK DR | LODI | CA | 95242 | 3208 |
| 2932089 | KING, NORMAND & LAQUITA J TR | | 2465 CENTRAL PARK DR | LODI | CA | 95242 | 0 |
| 2932090 | BRUSA, SELDON C & ELIZABETH TR | | 2461 CENTRAL PARK DR | LODI | CA | 95242 | 3208 |
| 2932091 | PARKVIEW TERRACE HOMEOWNER ASS | | 2346 CENTRAL PARK DR | LODI | CA | 95242 | 0 |